Al-Muqaddimah Al-Izziyah is a Maliki Fiqh text written by Abu Hasan Al-Maliki Al-Shadhili (d. 939 A.H, Cairo). The book covers all of the primary areas of worship in addition to practical life matters such as marriage/ divorce, commercial transactions and inheritance. It is said that the author wrote this book for the sake of the common community living around the Azhar Mosque in Cairo during his time. While it is not one of the major or relied upon books of the madhab, it's simplicity and eloquence has made it a desired treasure to many. Al-Izziyyah although originally written for a small audience around Azhar, has become a very popular book in West africa, North Africa and Sudan.

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Muqaddimah al-Izziyah lil-Jama'at al-Azhariyyah

A TREATISE ON MALIKI FIQH
FOR AN ENGLISH AUDIENCE

BY

Abu al-Hasan ali al-Maliki Ash-shadhili

Translation/ Notes: by Y.A. Quadri and I.O. Oloyede



بِسْمِ ٱللَّهِ ٱلرَّحْمَٰنِ ٱلرَّحِيمِ



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Disclaimer: Books of fiqh should ideally be studied with teachers. We have republished this work with the hope that it will be of benefit to teachers and serious students. It is also hoped this this book can serve as a reference for the common people since there are very few translated Maliki fiqh texts available in hardcopy.

Any fiqh rulings taken from this book should be crossed checked by scholars or "those who know" before you decide to follow them for yourself. This is especially important when reading the sections on marriage and divorce, commercial transactions and inheritance. Please be wise and mindful, using this book as a tool and resource to further your knowledge and ultimately your relationship with Allah.

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Preface

Alḥamdulillāhi Ladhī bi 'idhnihī tatimu 'Ṣ Ṣāliḥāt

All praise is due to Almighty Allah for making it possible for us to write this book.

This work *Al 'Izziyyah for the English Audience* is part of a design to make some of the Arabic books written by traditional authors on Islamic Jurisprudence available to numerous Muslims who desire to know more about Islam especially Fiqh but are handicapped due to the fact that the books are written in Arabic which they do not understand. The situation should not be allowed to remain unchanged.

Attempts have been made earlier by Dr. Y.A. Quadri in this direction by writing both Islamic Acts of Worship According to *Al 'Ashmawī* and *Al 'Akhdarī's* compendium on Islamic Acts of Worship. Another scholar in person of Alhaji Bello Muhammad Daura had translated *Ar-Risālah* into English Language while Mallam I.O. Oloyede is currently working on *Mukhtasar Khalil*.

With these books available in English language, it is hoped that many people will find tremendous fulfilment of their desire to quench their thirst for Islamic Jurisprudence-Fiqh.

We must not fail to acknowledge the inspiration given to us by Professor I.A.B. Balogun, former Head, Department of Religions, University of Ilorin to whom this work is dedicated. also, we express our appreciation to our colleague Dr. Z.I. Oseni for his usual useful advice and invaluable suggestions.

Y.A. Quadri
I.O. Oloyede

Introduction



Praise is due to Allah the Lord of the worlds, I bear witness that there is no God but Allah alone. He has no Associate. I also bear witness that *Muḥammad* is His servant and messenger. Blessing and peace of Allah be upon him, the generality of prophets and messengers; the household of each of them and on all those who follow them in righteousness till the Day of Resurrection.

The devotee (of Allah) who is in need of the benevolence of Allah the most Exalted, *Abū al-Ḥasan ʿalī al-Mālikī Ash-shadhilī*,[1] May Allah forgive him, his parents, his teachers, his brothers and the entirety of the people who tred on the prophet *Muḥammad*'s path until eternity, says: This is a presentation of issues of worship and other matters, according to the school of Imam Malik b. Anas - May Allah the Most Exalted have mercy on him. It is hoped that the youths and their ilks will benefit from it. God willing. I have extracted it from my book entitled *ʾUmdatal-Salik ʿala madhabil ʿimām Mālik fil ʿibadat wa ghayri dhalika*. I name it (this book) *al-Muqaddimatal-ʿizziyat lil-jamaʿat al-Azhariyyah*. It consists of eleven chapters.

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[1] A scholar of the *Mālikī* School of Islamic jurisprudence who is also a member of the *shadhili ṭarīqah*.

Chapter 1
Purification

Allah the Most Exalted said: "And We have-sent down pure water from the sky" (*Qurʿān* 25:48). Pure water is that which is in itself clean and can also cleanse other things; such as river-water, well-water, and rain-water[1], provided none of its three qualities - colour, taste and odour - has been changed by what is normally extraneous to it, such as milk, honey, urine or excreta. If any of its qualities is changed by anything including those mentioned, it is not valid for ablution, ritual bath, or cleansing from filth (i.e. after visiting the toilet). Water which is changed by a clean material remains clean but not pure; it can be used for general purposes but it is not to be used for religious acts. Pure water that is polluted by filth is filthy; it is neither used for general purposes nor for religious acts. If water is changed by its habitat; such as sand, salt or lime; or by what procreates in the water such as watermoss; or that which had stayed in the water for a long period, then such is not harmful; it is for both general and religious uses. When filth falls into a small quantity of water - such as the water in a container meant for ablution or for ritual bath - but the filth does not effect any change in the water, then cleansing or purification with the water is proper but using it is objectionable if another pure water can be found. Water which had been used for ablution or ritual bath is pure, but it is objectionable to use it for purification, if another pure water is available. Concerning its uses

[1] Included are such as spring-water, treated tap-water and water from similarly pure sources.

for other things such as using it for cooling one self in bath,[2] and *Jumuʿah* - bath,[3] there are two views. One objects to it while the other does not.

The Pure Bodies

Every living being either human or others, is clean. Also clean is it's sweat, saliva, mucus, tears and egg which is not addle. That is the egg which has changed and become rotten. The milk of a living human being is clean. Likewise is the milk of the living animal lawful for consumption such as cow, sheep and camel. So also are urine and excreta of an animal whose flesh is lawful provided the animal does not feed on filth. The (lawfulness or unlawfulness of) milk of others will be decided in accordance with the status of the flesh of the animal. So whatever animal whose meat is an unlawful food, its milk will be filthy, such include horses, mule or ass. Whatever the consumption of its flesh is objectionable such as beasts of prey, it's milk is also objectionable. The dead body of that without any flowing-blood, such as flies, ants and worms, is clean.

The Impure Bodies

The corpse of any human being other than that of a prophet is filthy. Also filthy is the carcass of whatever has flowing - blood such as that of louse, according to popular view, and such as fleas, according to the view of *Ibn al-Qassar*. Also filthy is what is extracted from a living or dead[4] animal among those things which are sustained by life - such as horn, bone, nails and skin. Also impure are the milk of a dead body, and milk of an animal whose flesh is forbidden such

[2]Ordinary bath which is non-obligatory on one like taking bath during very hot weather to reduce the effect of the heat on one.
[3]Non-obligatory ritual bath taken in preparation for *Jumuʿah* prayer.
[4]Animals not slaughtered or properly killed.

as a pig and a she ass. The urine and excrement of *Jalālah* are impure. *Jalālah* is every animal that feeds on filth. Also impure are the urine and excreta of a human being other than the excrement's of prophets; the urine and excreta of an animal whose flesh is forbidden or that whose consumption is objectionable; such as lion and wolf. Also filthy are bloody pus, white-pus, and flowing blood of a human being and other beings, vomit that has changed from the normal state of the food, and intoxicants such as liquor.

Also filthy are:

1. *Al-Many* (sperm): It is a thick white liquid from a man and its coming out is by gushing. It smells like pollen or very similar lo the smell of dough. When it is dry, the smell is similar to that of an egg. From a female it is a light and yellowish water.

2. *Al-Wady* (Seminal urine): It is a thick white liquid that comes out mostly after urine.

3. *Al-Madhy* (Seminal fluid): It is a light liquid which comes out during sexual enjoyment, either with the erection i.e. rising of the penis during romance or recollection (of sexual romance or cohabitation) i.e. thinking about it. The ashes and smoke of a filthy thing are filthy.

Removal of Filth

It is compulsory to remove filth from the garment, body and place of worship of a worshipper. These are what come in contact with parts of his body. It is compulsory provided he remembers (during or before the worship) and he is capable of its removal with pure water. If he removes it with something other than pure water and he thereafter offers his ritual prayer, the ritual prayer is invalid.

If filth falls on a worshipper while he is performing a ritual prayer, the prayer becomes invalid. The same (invalidity) applies if one remembers while on a ritual prayer, that either his garment, body, or place of worship contains filth. When a place is filthy, and a worshipper places on it a clean and thick cover, the prayer on such a cover is genrally accepted For both the sick and healthy, according to *IbnYunus*.[5]

Pardonable Filth

Overlooked is a little quantity of blood in all cases. Be it menstrual blood, post-natal blood or blood from a dead body. (It is overlooked) when the worshipper discovers it on his body, garment or place of worship either during ritual prayer or outside (before or after) it.

Also pardonable is a little bloody or white pus. Little is what is not up to a *dirham*. What is meant by a *dirham* is of mule's forearm. Also over-looked is the stain from the spot of a boil if it is not pressed, or stains of blood of fleas or rain-mud, even if it contains excreta. It is, however, not overlooked if the filth is more than the mud or if the filth is distinct from the mud.

Obligatory Aspects of Ablution

The obligatory aspects of ablution are seven:

1. Intention: It is the intention within the mind. One offers the intention in one's mind while washing the face. The intention can be:

   a) "For making obligatory ablution".

   b) "removal of (minor) filth" or

[5] *Ibn Yunus* was a renowned *Muslim* jurist.

c) "For making lawful what has been made unlawful by the discharge of impurity."

2. Washing the whole face: Its length is from the beginning of where hair normally grows up to the end of the chin, while its breadth is whatever falls between the two ears. He specially washes the linings on his fore-head i.e. the wrinkles on the fore-head. So also are the tips of the lips and the tip between the two nostrils. It is compulsory to wipe a light beard and wash a long thick beard.

3. Washing the hands up to, and including, (the elbows. It is compulsory to rub in-between the fingers of the two hands.

4. Wiping of the whole head. Starting from the beginning of the fore-head up to the end of the skull.

   Whoever performs ablution and thereafter cuts his nails or shaves his head, needs not rewash or rewipe the places. Opinions differ if one shaves one's beard after ablution. Some scholars opine that one should rewash its place, while others say he need not.

5. The washing of the two feet up to and including the ankles. These are the two protruding bones at the edges of the shins. It is recommended that the toes be rubbed through.

6. Proper rubbing. It is passing the palms over the relevant part of the body with water. It is not a condition that the rubbing should be done simultaneously with the pouring of water on the part of the body.

7. Continuity: It is to perform the whole ablution quickly at one stretch without an extraneous interruption while one remembers that one is in ablution and one is capable of performing it at once.

Sunnah Aspects of Ablution

The Sunnah[6] *aspects of ablution are eight:*

1. The washing of the two hands before dipping them into the container. The washing should be with the intention of worship. Each of the hands is separately washed thrice.

2. Rinsing of the mouth. That is putting water into the mouth. Then it is stirred and then spit out.

3. Sniffing. That is, allowing water into the nostrils.

4. Exhaling: It is the blowing out of water from the nostril while one places the left thumb and index fingers on the nose. One who is not fasting should be thorough in his rinsing and sniffing. It is preferred thai the rinsing should he with three (fresh) handfuls and then the sniffing with three separate handfuls of water.

5. Wiping of the ears. Doth their outer and inner surfaces. (This is done) by putting the index fingers into the ear cavities while the thumbs are placed behind the ears.

6. Renewal of water for the wiping of the ears.[7]

7. The return of the hands from the occiput to the fore-head when wiping the head.

8. Arranging the obligatory aspects of the ablution in sequence.

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[6] The Tradition of the Prophet *Muḥammad* (S.A.W.)

[7] This provision is to caution against the use of the residue of same handful of the water used for wiping the head for the wiping of the ears. A separate handful of water is needed for the wiping of the ears.

NOTE: Whoever omits any obligatory part of ablution will re-do it and he shall repay the ritual prayer (which he mighty have performed on the basis of the incomplete ablution). Whoever omits a *Sunnah* aspect of ablution needs not repay (the ritual prayer; he would re-do the *Sunnah* only for the subsequent ritual prayers.

Virtuous Acts of Ablution

Virtuous acts of ablution are eleven:

1. Mentioning the name of Allah at the inception of the ablution by saying: "In the name of Allah". If it is forgotten at the beginning, and it is remembered during the performance of the ablution, one will say it then.

2. Prayer at the completion of the ablution by saying while raising one's index linger towards the sky: "I bear witness that there is no god but Allah alone, He has no associate and I bear witness that *Muḥammad* is His servant and Messenger. Oh God, make me one of those who repent and make me one of pure ones".

3. One should not talk during one's ablution.

4. Minimizing the quantity of water to be used. This has no specific limit. it is like the case in ritual bath, but with due cognizance of the requirements of each of them.

5. Brushing the teeth with wet or dry stick, but the fresh one is preferred for a non-fasting person. If one does not find a stick, the fingers or any coarse object is used. The right hand is used for brushing. It is done before the ablution and the mouth is rinsed after the brushing. When there is a long period between an ablution and its use for the ritual prayer, one brushes the teeth. If it is time for another ritual prayer while one is still with a valid ablution, one still brushes the teeth for the second ritual prayer.

6. That one performs the ablution in a clean place.

7. That the water container is placed on one's right-hand side if it is (wide) opened.

8. That one washes the right parts before the left.

9. That one starts (the wiping of the head) from the forehead.

10. Arranging the*Sunnah* aspects together such as rinsing of mouth and sniffing water into the nostrils.

11. Washing the parts thrice with the exception of the head and the ears. It is not recommended that the wiping of each of the latter should be repeated.

NOTE: Washing in excess of thrice is not in conformity with the law[8]. There are two popular views on whether such excess is only reprehensible or forbidden. Excess is not recommended. Excess is to exceed the limit of what is compulsory to be washed, such as the face and the hands up to, and including the elbows. Wiping the neck is not recommended. It is not bad to wipe the parts with handkerchief.

Cleansing From Discharged Filth

Istinjā [9] is compulsory. It is the washing with water of the outlet of discharged filth. Such cleansing is done in respect of every thing that consciously comes out of the two outlets except (the blow of) wind. Its description is as follows:

One shall begin with the washing of one's left hand before its contact with the filth; then the washing of the source of excreta. One pours water into the hand using it to wash the spot. One relaxes the

[8]The Islamic law.

[9]Cleansing the outlet of a filthy discharge with water.

body a bit. The rubbing is thoroughly done until the place is clean. Then one rubs the hand over sand or similar materials[10].

Istibrā is compulsory. It is to completely free the two outlets of filth that comes out through them. As for urine, it is done by a male puling his penis between his thumb and his index finger; the two fingers are tightly passed over the penis from its stalk up to the penis-cap, then it is shaken. This is done thrice. The rubbing off and the shake are gently done. The washing of the whole penis is compulsory once sperm is discharged. There are two views on the necessity or otherwise of giving intention for the cleansing.

Toilet Etiquettes

The etiquettes of easing oneself are fourteen:

1. Remembrance of Allah while one intends entrance into, and before one gets to the lavatory. One says: "In the name of" Allah. Oh Allah, I seek refuge in you from filth and impurity." After the exit from it one says: "I seek Your forgiveness, all praise is due to Allah who has taken filth off from me and has overlooked my sins." It is not proper for one to enter the lavatory with anything that contains the name of the Almighty Allah, such as a ring and a coin. It is also not proper to cleanse with any material containing the name of the Almighty Allah.

2. To enter first with his left leg and come out lire I with his right leg.

3. To squat[11] while discharging the filth.

4. To continue to cover one's nudity until one gets very close to the ground.

[10] One can wash one's hand with soap instead of rubbing it over an object.

[11] Resting on one leg. This explains why the traditional Islamic scholars in Nigeria disapprove of urinating while one is in a standing position.

5. To rest on the left leg.
6. To put a jar one's thighs.
7. To avoid a very hard surface.
8. To avoid stagnant water.
9. To cover one's head
10. Not to talk,[12] except for necessity such as fear of losing life or property.
11. To avoid the direction of the wind, a burrow[13] and the three places where one can he cursed. These are the sitting spot of the people and their paths.[14]
12. To veil oneself from the sight of people.
13. To go far from where one can hear the talk of others if it is in an open space or bush.
14. Not to face or turn directly one's hack towards the *qiblah*,[15] if it is in a jungle and there is no barrier but if there is a veil there are two opposing views on its prohibition[16]. The preferred view is prohibition.

Concerning its taking place in a house, it is allowed whether or not there is a barrier and irrespective of whether or not it is difficult (to turn away from the *qiblah*).

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[12]While one is still in the act of discharging the filth.

[13]For a sudden appearance of any animal from It could lead to serious embarrassment and a messy consequence.

[14]The author mentions only two of the three. The third is the bank of a functional river.

[15]Towards the sacred house in Makkah i.e. The *Ka'bah*.

[16]The other view is that it is allowed.

Vitiations of Ablution

Acts that vitiate ablution are four:

1. Apostasy . It is denunciation of Islam by a *Muslim*.

2. Doubt as to the subsistence of valid purity or on the existence of discharge of filth; or as to which of the two precedes the other (i.e. purification and discharge of impurity), provided the person is not habitually in doubt (in such matters).

3. Discharge of filth: It is what comes out from the two outlets in a good state of health and consciously.

4. "The causes", and these (the causes) are three:

    a) Touching of one, from whose touching one normally derives sexual pleasure,-such as One's wife[17] - or maid[18]. If one intended, with the touching, to derive sexual pleasure whether or not one derived it. So also if one derived sexual pleasure without intending it. The exception is mouth-kissing which vitiates ablution in all cases. The issue of sexual pleasure does not matter in the case of mouth-kissing.

    Our statement that "touching of one from whose touching one normally derives sexual pleasure" is to exempt those from whose touching one does not normally derive any

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[17]The implication of "wife" here is spouse.

[18]The maid from Islamic view-point meant a slave-girl under a master. During the time of slavery such ladies were considered inferior and could not marry unless with the permission of their masters. One way through which the manumission of such ladies was effected by Islam is to make sexual cohabitation with them lawful for their masters. Once they had a child for the master, they became the "mothers of the children" and their status enhanced. This provision is not applicable to present-day female aids or house-helps who are just employees of their masters. For detailed information read M.M. Ali: The Religion of islam, Lahore, 1973. pp 543-544.

sexual pleasure, and in which case, does not vitiate it. Such as touching of a minor female that does not generate attraction; or touching a close relation who is within the prohibited degrees, such as mother, daughter or sister[19] .

b) Touching one's penis with bare inner part or sides of the palm, or with either inside or side of fingers without any barrier. It is same whether it is done intentionally or unconsciously; whether or not one derives sexual pleasure from it, and whether it is the glans of the penis or any part of it that is touched. Touching through a "veil, no matter how thin does not vitiate ablution. Ablution is not vitiated by laughter during a ritual prayer.

   According to the *Mālikī* school of law, ablution is not vitiated by a woman's touch of her private part. It is however the opinion of some scholars that it vitiates it in all circumstances, while others say that it only vitiates ablution if she holds it or if the finger sinks into the private part. i.e. if she puts her-hand in between the lips of the private part. Touching the outer surface of the private part does not vitiate ablution, just as touching the buttocks or the testicles. It is not vitiated with the erection of the penis which is not accompanied with sexual pleasure, or with sexual pleasure which is as a result of looking provided sperm is not discharged. So also is sexual thought accompanied with sexual pleasure in the heart, without the erection of the penis.

Two Sub Issues:

i. Serious stomach, rumbling necessiates new ablution.

ii. It is said in the book *al-Mudawwanah*[20] If one wor-

[19] See The Holy *Qurʿān* 4:22 ff.

[20] *ʿAbduʿs-Salam ibn Saʿid Saḥnun* : *al-Mudawwanah al-Kubra*, Cairo, 1908, Vol.

ships while one is suppressing the discharge of filth one would ever repay the worship. Other scholars opine that if the suppression prevents one from completing obligatory acts one must repay it; if it prevents one from completing the *Sunnah* acts one would repay the ritual prayer if within the specified period only; and if it prevents one from the completion of optional acts, one need not repay.

c) Loss of reason, through fainting, madness or drunk-ness. Drunkness is same whether it is by unlawful or lawful means. It may also be from sleep if it is deep irrespective of whether it is long or short. The contrast is light sleep which does not vitiate even if it is long. A light sleep is that in, which the person concerned can recognize one who leaves and one who arrives. A deep sleep is that in which the concerned person is not conscious of that.

Prayer, circumambulation (of the *Kaʾbah*), prostration when reading the *Qurʿān*, prostration of rectification, touching the *Qurʿān* with a bare hand or with a stick, and carrying it with its chart or with strap are prohibited for one with impurity.

It is permissible for a teacher and learners who are without ablution to touch the slate[21]. So also is touching of a portion of the *Qurʿān* by a learner, even if the learner is mature. It is objectionable for minors to touch a complete *Qurʿān* without ablution.

Ritual Bath

Incidents which necessitate a ritual bath are four. Cessation of the flowing of menstrual blood; post-natal blood; death; and sexual impurity. The latter is of two kinds. Discharge of sperm which is accompanied with sexual pleasure which is normally experienced by

I P.17.

[21] On which *Qurʿān*ic passages are written.

man and woman either asleep or awake. Awake is the opposite of sleeping. Ritual bath is also necessary for the discharge of sperm which is not accompanied by sexual pleasure. Such as if one cohabits and derives pleasure from it but sperm is not discharged, then sperm comes out thereafter, but before one performs a ritual bath.

The second is the enclosure of the cap of the penis of a mature male, i.e. the head of the penis or in the case of a penis that has been cut, dipping of the size of a penis-cap into the private part of a human being or animal, whether or not the being is female or male; living or dead even if sperm is not discharged.

Sexual impurity inhibits what minor impurity inhibits with the addition of the prohibition of *Qur'ān*ic reading except one or few verses for the purpose of seeking refuge with Allah, seeking protection and maintaining justice. It also prevents entry into the mosque or staying in it. A ritual bath for the removal of sexual impurity is made up of compulsory, *Sunnah* and virtuous acts.

The compulsory acts are five:

1. Intention of removal of great impurity.
2. Passing water over the surface of all parts of the body.
3. Proper rubbing.
4. Making water penetrate the hair.
5. Doing it at a stretch; without any break.

The Sunnah acts are four:

1. Starting with the washing of the two hands before dipping them into the vessel.
2. Wiping the cavity of the ears,
3. Rinsing of the mouth.

4. Sniffing water into the nostrils.

The virtuous'acts are seven:

1. Mentioning Allah's name.
2. Starting by removing filth from the body.
3. Complete ablution: Each part washed or wiped once with the intention of the removal of sexual impurity from each of the parts,
4. Pouring water cm the head thrice.
5. Pouring water on the right half of the body before the left half.
6. Starting from the upper parts before the lowerparts.
7. Minimizing water within the limit of the requirement of bath i.e. doing it properly.

Emergency Purification

Emergency purification is sand purification which is made up of wiping the face and the two hands (including the arms). Its principal necessity is non-availability of water or what can be so regarded, such as: if the available water is not sufficient, or if one is afraid that the use of the available water can cause loss of life, loss of a valuable thing, deterioration in sickness, delay in healing or causing sickness.

It is recommended that once it is necessitated by sickness or journeying, an emergency purification should be performed by one in the state of minor and major impurity at every ritual prayer. A healthy resident (not a traveller) can use it for funeral prayer, only if he had been specially chosen to perform the prayer, and for other obligatory worship-except extitJumuʿah prayer- if one is afraid that the time for the prayer will expire if water were to be used. Worship (based on such emergency purification) shall not be repaid.

The exceptions (in which *tayammum* may no be used) are funeral worship in which the person is not specifically chosen[22]; *Jumuʿah* worship even if one is afraid of expiration of the specified time, all supererogatory ritual prayers both those based on *Sunnah* and the virtuous ones.

Emergency purification is voided by the things that vitiate ablution and the availability of water before the commencement of the ritual prayer, except when one fears the expiration of the time by the use of the water. If one finds water, while one is already within a ritual prayer, the prayer is not vitiated by the availability of water.

Emergency purification is done with pure earth. This can be sand, stone, pebbles and all other components of the earth provided they are still with their natural qualities, i.e. that human activity has not changed them through such as burning, etc. Sand is preferred to other materials Emergency purification cannot be performed on precious mineral such as gold and silver. It cannot be performed on wool, carpet or mat even if dust is an them.

A sick person who does not find someone to bring sand to him is allowed to perform emergency purification on wall made of raw brick or stones except those made from quick-lime. Whoever performs emergency purification unknowingly on a filthy place, the ritual prayer (based on the purification) can only be repaid if he recollects and could do it within the specified period. Sand which had been used for emergency purification is not disallowed for another emergency purification. Emergency purification is not sound if done before the prescribed time of the worship.

The description of emergency purification is to give intention of making ritual prayer permissible and if one has discharged major impurity one would also make intention against major impurity. Then one says: "In the name of Allah," then, one uses the earth by striking one's hands against it once. If any particle sticks to the hands, one

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[22] Provided there are other competent *Muslim*s around to perform the funeral ritual prayer.

will shake the hands gently. Then one wipes, with the two palms, one's face and beard. One starts from the upper most till one completes the wiping of the whole face. Then one strikes the earth with one's hands for the second time for wiping the two hands and the arms. One wipes the back surface of the right hand with the left palm up to, and including the elbow and then wipes the inner surface up to the finger tips. Then one wipes the left hand and arm up to, and including, the elbow and then wipes the inner surface up lo the tips of the fingers.

It is obligatory to wipe through the fingers and remove the ring. It is not proper not to remove the ring. The second striking is a *Sunnah* act, so also is the wiping up to the elbow. If one limits the striking to once for the wiping of the face and the two hands the purification is valid. If he limits the wiping of the hands to only up to the wrists, and offers the ritual prayer with it, the prayer will be repaid only within the prescribed period[23].

Wiping of the Wound

If there is wound on any of the parts required to be washed in ablution or any part of the body, and one is afraid that its washing could cause loss of life, loss of a valuable, deterioration in sickness, delay in healing or sickness, one would wipe over the wound. If one is not able to wipe it, one would wipe over the splint, i.e. the medicinal material that is placed on the wound. If one is not able to wipe the splint, then one wipes over the bandage, even if the bandage is wider than the size of the wound. The same applies to phlebotomy or turban the removal of which generates fear (if its removal generates fear).

The said wiping is based on the condition that either a greater part of the body is free from the wound or that the greater part is af-

[23] If it dawns on one only after the expiration of the prescribed period for the particular ritual prayer, then one need not repay.

fected but washing the unaffected parts would not adversely affect the wounded parts. If washing the unaffected parts is harmful or that the unaffected part is so small such as that the free part is not more than the (size of) hand or leg, the unaffected parts would not be washed and the wound would not be wiped rather the next option is emergency purification.

If wiping a wound is difficult such as in the case when it is not possible to place anything on it, and it is not also possible to touch it with water; and in the case where the affected parts are the parts to be wiped in emergency purification and therefore it is not also possible to wipe it with sand, then one would leave it with neither wiping nor washing and one would only wash the other unaffected parts. In the case that the parts to be wiped in emergency purification are free from the wound, then one would wash the parts of ablution that are unaffected and then supplement with emergency purification, (and if the parts to be wiped in emergency purification are affected, then in addition to the parts washed) one also wipes in emergency purification the affected parts, according to one of the four views[24]. If one had wiped a splint and thereafter removed it for dressing or any other reason, or if the splint falls off, the said wiping over it becomes invalid. If it is replaced on the wound, there is no doubt as to the necessity of a second (fresh) wiping.

Wiping Over Half -Boot

Wiping over half-boot in purification has eight conditions:

1. The boot must be made of leather, if made of other items such as rag even if sewn in the pattern of half-boot, wiping over it is not allowed, except it is a *Jawrab*. *Jawrab* is what is made of linen or similar material in the shape of half-boot, and its top and bottom are covered by sewn leather.

[24](i) To do only the possible washing (ii) To do only the possible wiping (iii) to abandon both (iv) To combine what ts possible of the two options.

2. It should be pure. One would not wipe over impure ones such as the skin of pig, or the skin of an animal whose flesh is otherwise lawful (for consumption) but which was not slaughtered, or of a slaughtered but unlawful animal; even if the skin is tanned.

3. It should be sewn. One would not wipe over the half boot if only tied up or in any similar manner.

4. It should cover the parts that are necessary to be washed in ablution. Not if it covers less. In which case, it is not to be wiped, so also is if it has a big tear that is up to a third of the size of the foot.

5. That walking with it is possible. A wide one with which walking is not possible will not be wiped.

6. To be worn in a state of purity. It is not to be wiped if at the time of wearing it one is in a state of impurity.

   It is also conditional that:

   a) The purification should have been made with water. If one is purified through emergency purification and then wears it, one would not wipe over it.

   b) The purification should have been completed before wearing it. If one washes one foot and puts it into the half-boot before washing the second one or in similar fashions, one is not allowed to wipe over it.

7. That one should not wear it out of disobedience. Same as for a person in a state of ritual consecration for pilgrimage, who is not compelled to wear it by necessity. To wear it one should also not be on an illegal journey such as a rebel or a fleeing slave, none of whom is allowed to wipe over his worn half-boot.

8. That one does not wear it for luxury. One who wears it for sleep or similar purposes would not wipe over it.

NOTE: If all these conditions are met; wiping is allowed. There is no time limit to the wiping[25]. Putting it off is not necessary except one becomes infected by great impurity or the boot is widely torn, or one removes the boot from the toes or greater part of the toes, up to the trunk of the half-boot.

The recommended description of the wiping is to place one's right hand fingers on the toes from the bottom surface of the half boot and one continues the wiping with the two palms up to the ankle. Then, according to one of the two views, the left foot is done in the same way.[26]

Menstrual Blood

Menstrual blood is the blood that comes out from the genital organ of a person that can normally be pregnant. Its duration is fifteen days or less, it could even be for an hour; provided the blood is not caused by birth or sickness. Its minimum duration, like the maximum duration of purity, is not fixed. The minimum period of purification from menstrual blood is fifteen days. The maximum period for menstruation differs with differences in women involved. If she is a beginner, the maximum period, if blood persists, is fifteen days. If she is an experienced woman, it is either that her duration is irregular or regular. If it is not irregular, the maximum would be an addition of three days over and above her normal duration, subject to the maximum period of fifteen days. If her duration is irregular, then she adds to her maximum duration[27], in the same manner[28]. During the days of

[25] Once it is not otherwise necessitated, it has no time Limit when one should remove it and perform fresh and direct ablution.

[26] The other view is that for the wiping of the left foot, one places one's left hand fingers on the toes and places one's right fingers under the toes.

[27] The maximum duration she has ever had.

[28] Still subject to the maximum of fifteen days.

Īstizhār[29], she is a menstruating person. If it continues after the end of fifteen days, she is legally pure, for the purposes of ritual prayer, fasting, non repayment of the ritual prayer performed, and meeting with her spouse[30].

Symptoms of Termination of Menses Post Natal

Freedom from menses has two symptoms:

1. Dryness - It is for a woman to put a cloth into her organ and brings it out dry, without any blood stain.

2. The other is white gypsum - it is white light water, which comes at the end of menstrual discharge; it is like the water from gypsum i.e. quicklime, This gypsum is a more reliable symptom for an experienced woman even if she first discovers dryness, she still looks out for the gypsum up to the end of the prescribed period[31].

A beginner would not expect the gypsum if dryness is first discovered. A woman looks out for freedom from menstruation at the time of going to bed at night, and at the time of *Ṣubh* ritual prayer. Menses prevents ritual prayer, fasting, divorce, touching the *Qurʿān*, reading the *Qurʿān*, entry into the mosque and real sexual cohabitation during the menses or after it but before (she performs) ritual water purification.

Post-natal hemorrhage

Post-natal hemorrhage[32] is blood that comes out from the genital organ (of a female) as a result of child-birth. Its duration is not more

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[29] Period of grace when one is expecting the cessation.

[30] *Khalil ibn Is-haq Mukhtasar Daru ʿl-fikr*, n.d, P. 22

[31] The prescribed period for the daily ritual prayer which is due at the time when the dryness has been ascertained.

[32] Post natal blood-discharge including lochia.

than sixty days. If the flowing continues beyond sixty days the excess is discountenanced. The legal position on post natal hemorrhage, concerning its prohibition and necessitating ritual bath is completely identical with menstrual blood in all shades. God knows best.

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Chapter 2
Ritual Prayer

It is one of the five pillars on which Islam is built. They are: Testimony that there is none worthy of worship except Allah and that *Muḥammad* is His servant and messenger; observance of ritual prayer; payment of *Zakah*;[1] Fasting in the month of *Ramadān*[2] pilgrimage[3] to the sacred house of Allah by whoever is capable of it.

Aṣ-Ṣalaḥ is the most important pillar after the two statements of testimony[4], whoever observes ritual prayer has observed the religion (Islam) and whoever neglects it has neglected the religion. Five conditions make the performance of ritual prayer obligatory: Islam; maturity; consciousness; freedom from the blood of menstruation and child-birth and; the maturity of the time of prayer[5]. The obligation comes into effect at the beginning of the time, though the span of the time is expansive.[6] Whoever denies its being obligatory or that of any of its obligatory rites or any of the five pillars of Islam is an unbeliever, an apostate , who is expected to repent within three days, failure of which he is to be (pb. edit: punished) (pb. edit: in the context of an Islamic state).[7]

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[1] Obligatory charity imposed by Allah on all believers once in a year.

[2] The ninth month of the lunar calendar.

[3] Or intention to do so at the earliest convenient opportunity.

[4] That is: "I bear witness that there is no deity worthy of worship but Allah and that I bear witness that *Muḥammad* is His servant and Messenger"

[5] See the Holy *Qur'ān* 4:103. Each of the daily ritual prayer has its specific time before which the particular prayer cannot be validly observed.

[6] It could, but should not, be unduly delayed.

[7] This provision has been analyzed in I.O. OLOYEDE: Shari'ah Versus secularism in Nigeria, (in Press) I.P.B., Lagos.

Whoever affirms its being obligatory but refuses to observe it would be given respite until the time when it is about the time sufficient for observance of a full *rakʾah* to the expiration of the time of excuse[8], if then he does not perform the prayer, he would be (pb. edit: punished according the law) . One who misses his ritual prayer shall not be (pb. edit: punished thus). A child shall be advised to observe his ritual prayer as soon as he is seven years old and shall be moderately[9] beaten, if he does not, after he has reached the age of ten.

Obligatory Ritual Prayers

The obligatory ritual prayers are five: Early afternoon prayer[10] , late afternoon prayer[11], sun-set prayer[12] , night and early morning ritual prayers[13] . Each of these ritual prayers has two periods: Prime period and excused period. Prime period for early afternoon ritual prayer is from the time when the sun reaches the meridian[14], up till the time when the shadow is as long as its object, and that is the beginning of the prime-period for late afternoon ritual prayer and its end is when the sun become pale.[15]

The period of sun-set ritual prayer is when the disc[16] of the sun disappears. It is a very short period. The duration of the period is from when it is time till the end of the time sufficient for the performance of the prayer after necessary pre-requisites (such as purification) might have been met. For night prayer, it is from the time of

[8]Each of the five daily prayers has both the prime time and the period of grace or period of excuse.

[9]Not serious enough to inflict wound on him.

[10]*Ẓuhr*

[11] *ʿAsr*

[12]*Maġrib*

[13] *ʿishā* and *Ṣubh* respectively.

[14]It is the time when objects begin to have shadows on a sunny afternoon.

[15]The paleness can be vividly observed through the rays of the sun as reflected on the ground and on objects.

[16]The circular shaped object and not the glow.

the disappearance of the evening glow up till the end of the first third of the night. The time for early morning prayer is from dawn up till the break of the dawn.

The excuse period for the early morning prayer is from the break of the dawn till when sun rises. The period for early afternoon prayer is from the prime-period of late afternoon prayer till when the disc of the sun disappears, while the time for the late afternoon prayer is from when the sun turns pale till it sets. The period of sun-set prayer is from when the prayer is normally said till dawn. As for night prayer, the period is from the end of the first third of the night till dawn.

NOTE: Whoever delays the observance of a prayer up till the period of excuse without any excuse has committed sin. The excuses are: menstruation, child-birth, disbelief, under-age, madness, fainting, sleep and forgetfulness.

Repayment of Ritual Prayers

It is compulsory for a mature person to repay chronologically whatever obligatory ritual prayers he missed without any time limit. It is compulsory to observe in sequence two related prayers when they are to be observed together. If a worshipper misplaced the performance, he must repay the second prayer[17].

It is also compulsory that the missed prayers have to be repaid before the performance of a current prayer even if the period of the current prayer is very tight, provided the missed prayers are not more than five prayers. If they are more than five prayers - according to one of the two famous views - or more than four, according to the other view, the current ritual prayer shall be observed first, when the remaining period for the current prayer is very tight.

[17] The implication of the statement is that if he makes the first second and he has to repay the second, it follows that the 'first' which is supposed to come after the one he has erroneously made the second, should also be repaid.

One who remembers a missed ritual prayer while he is on a current one, would have to arrange them chronologically. If one is a lone worshipper one would break the prayer provided a *rakʾah* has not been completed by the placing of one's hands on the knees. If it has been completed, one should add one *rakʾah* to it before terminating it on the second *rakʾah*.

If he is the Imam he would still break it without continuity by a deputy, and the break consequently affects the prayers of his followers (congregation). If he who remembers a missed prayer is a follower, he would continue the prayer with the Imam. After the prayer, he would observe what he had forgotten and thereafter within the prescribed time repay what he had observed with the Imam[18]. If the prayer to be repayed is a Jumuah prayer, one would repay it as *Ẓuhr*.

NOTE: It shall later in this work be noted that, according to *ʿibnul-Qasim*[19], a *rakʾah* is completed when the head is raised from the *rukūʿ*, except in certain cases which are mentioned in details.

Periods when optional prayers are not to be observed

It is prohibited for a bona-fide worshipper[20] to observe supererogatory ritual prayer (*Nāfilah*) when the sun is rising or setting; during the Friday sermon; at a time when the current obligatory ritual prayer is almost out; or after the lapse of the time of an obligatory ritual prayer for one who is still owing the particular or earlier obligatory ritual prayer.

[18] The implication of "within the prescribed time" is that if the time has lapsed by the time he finishes the missed one, he need not repay the one he had performed behind the Imam. See *Salih Abdul-Sami' al-ʿAbi al-Āzhari*: *al-Jawahir al-Madiyyah bi Sharh ʿl-ʿIzziyyah*, Cairo, a.d. p. 59.

[19] *ʿibnul-Qasim* was a renowned *Muslim* jurist who first complied *al-Mudawwanah*.

[20] *mukallaf.* A mature and sane free person.

It is objectionable to observe the supererogatory ritual prayers right from immediately after the appearance of the true-dawn till when the sun is about the size of a normal spear; after the observance of *ʿasr* prayer up till when the *Maġrib* is observed; when the *adhān* (call to prayer) of *Jumuʿah* prayer is made, for one who had hitherto been seated[21] ; or after *Jumuʿah* prayer in the same venue of the *Jumuʿah* prayer. It is not objectionable to observe supererogatory ritual prayer at the period immediately before the sun reaches the meridian.

Al-'Adhān

Al-adhān is a *Sunnah*[22] act in places where people normally gather such as *Jumuʿah* mosques and other area mosques[23]. It is a notification that it is time for an obligatory ritual prayer.

It is said in a certain formulae:

1. Allah is the Greatest (2x).
2. I testify that there is no deity worthy of worship except Allah (2x).
3. I testify that *Muḥammad* is the Messenger of Allah (2x) (The volume of the voice would be raised higher on each occasion of repeating each of the two testimonies).
4. Come to worship (2x).
5. Come to success (2x).
6. Allah is the Greatest (2x).

[21] Not for one who is on the prayer when the call is made nor for one who has already stood up to begin the *Nāfilah* when the call is commenced.
[22] Act which is in conformity with the practice of Prophet *Muḥammad* S.A.W.
[23] Area mosques normally used for. The observance of the daily prayers.

7. There is none worthy of worship except Allah.[24]

In the *adhān* for *Ṣubh* prayer, after "come to success," "Worship is better than sleep" (2x) is added. It is not proper to make a call for any of the five daily prayers, *Jumuʿah* inclusive, before it is time for the prayer. The only exception is *Ṣubh* prayer. It is desirable to make its call during the last sixth of the night before the fajr appears, then its second call is made when its time is up. On the basis of the hadith from Abi Sa'id, it is recommended that a lone-worshipper who is on a journey could make a call to prayer.

NOTE: The caller should avoid elongation of "Ba" in "Akbar[25]"; and "a" in any of *Ash-hadu* and "*Allahu*[26]," pausing Immediately after' Ash-hadu an La'ilaha[27]", the omission of the assimilation of "Dan" into "ra" in "*Muḥammad a-rasūlu*; putting "a" after "l" in *"rasūlu"*[28]"; abandoning the pronouncement of "t" in "*hayyaʿalas-ṣalāt*"[29]" and not pronouncing "hi" in "*hayyaʿalal-falāh*".

[24] The call is to be made in Arabic which is the Lingua franca of the *Muslim*s. It is to be noted that the call is not intended for the people of any particular race, tribe or language but all *Muslim*s within the locality. The practice of having ethnic mosques such as Hausa mosque, Yoruba mosque, etc which is in vogue in some parts of Nigeria is antithetical to the intended goal of congregational ritual prayer. *Muslim*s should also discourage the practice of having family mosques which is rampant in some low density areas in most of our urban cities. *Muslim*s should avail themselves of the opportunity and benefits of daily congregational ritual prayer in every locality. Individual family-mosque is likely to hinder communal efforts and effective consultation and the taking of collective decisions by *Muslim*s within a locality, See *Qurʿān*. 3:102.

[25] It distorts the original meaning and thus constituting an unintended opinion.

[26] The elongation turns the statement to a question such as ?Is Allah the Greatest?? instead of ?Allah is the Greatest?.

[27] It does not make a complete sense and unless the succeeding phrase is added, it represents an opposition to the position of Islam on the concept of the existence of Allah.

[28] If it is called "*Rasūla*", it means "I bear witness that *Muḥammad*, the Messenger of Allah" instead of "I bear witness that *Muḥammad* is the Messenger of Allah".

[29] "*Salāt*" and not "sala". Though the origin of the letter is ha it becomes "t" with

The *adhān* should flow freely without any excessive elongation or undue stretch. The pausing points should be made continually, hence it should not be punctuated by unduly long silence or (any other) talk, not even the saying of *as-salāmu ʿalaykum*[30], nor response to such greeting nor any other utterance. It is meritorious for one who listens to the call to chorus the formulae up till the end of the statement of the two testimonies[31] without any recession even if one is on a supererogatory prayer.

There are two categories of conditions for a caller: His prima-facie conditions[32] (or conditions for validity) and the conditions for the perfection. Prima-facie conditions are that he must be a *Muslim* male, mature and sane. The conditions for perfection are that he must be a just person, knowledgeable about time, with sonorous voice, in a pure state, standing, facing the *qiblah* except if people would not hear the call unless the opposite is done (not facing the *qiblah*), and that he must not have observed the prayer to which he is calling the people.

al-ʿIqāmah

al-ʿiqāmah is *Sunnah*, it is a more emphatic *Sunnah* than the '*adhān* (call to prayer) because of its direct link with the actual ritual prayer. If there is a lapse of time between it and the prayer the *ʿiqāmah* becomes void and it is started all over. *Ibn Kinanah*[33] said that the prayer of whoever deliberately avoids it, is void[34]. To be on the safe side one should ensure that it (the *ʿiqāmah*) is said. This is in connection with male but as for the female its recital, is only a meritorious

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the two dots.

[30]Or any other form of verbal greetings.

[31]The two statements starting with "I bear testimony....?

[32]Condition precedent.

[33]*Ibn Kinanah* was a *Muslim* jurist.

[34]The general view is that it is not void. See S.A. *Sami al-ʿAbi al-Āzhari*: *Sharhu ʿl-ʿIzziyyah*, op . Cit. p. 65.

act which should be recited silently, and it does not harm, if she does not recite it.

Its formulae is:

1. Allah is the Greatest (2x).
2. I testify that there is no deity worthy of worship except Allah.
3. I testify that *Muḥammad* is the Messenger of Allah.
4. Come to worship.
5. Come to success.
6. Allah is the Greatest (2x).
7. There is none worthy of worship except Allah.[35]

What we have said[36] as regards the fact that the statements of the *ʿiqāmah* are said only once except for the *takbīr* which is said twice - is the popular opinion among jurists. If any of the component, except the *takbīr*, is repeated, the *ʿiqāmah* is not proper. The reciter neither talks while reciting the *ʿiqāmah* nor responds to the greetings offered to him.

A worshipper reserves the right to stand up for the prayer either during or at the completion of the *ʿiqāmah*.

Conditions of Aṣ-Ṣalaḥ

The conditions of Salāt are Four:

1. Removal of filth[37] from the cloth, body and the place of the worshipper both at the commencement (of the ritual prayer) and continually during the ritual prayer.

[35]The *ʿiqāmah*, just as the '*adhān* has to be made in Arabic.
[36]May be else-where in another work of the author.
[37]Externally Imposed Impurity.

2. The removal of ritual impurity (excrement) at the commencement and continually in every prayer whether it requires bending and prostration or not[38].

3. Coverage of nudity with a thick material. The nudity of a male is from his navel to his knees while that of a free female, in the presence of a stranger[39], is her whole body save the face and the hands.

4. Facing the *qiblah* except during a close combat in a battle, or for a rider (on a mount) in a voluntary prayer, while he is on a lawful journey ; the type that allows the shortening of prayer. Whoever performs ritual prayer, not facing the *qiblah* forgetfully, and does not realize until he finishes the ritual prayer, must repay the ritual prayer. Opinions differ on this[40]. The same rule applies if it is done out of ignorance or deliberately.

Obligatory Acts of Ritual prayers

Obligatory acts of ritual prayer are fourteen:

1. The initial *takbīr* (Allah is the Greatest) by every worshipper, its form is "*Allāhu Akbar*" - without emphasizing the ba[41]. It is not proper for a person who could use Arabic properly to use any other form . As regards one who could not pronounce it well in Arabic, an opinion is that he should start the worship

[38]Literally those that have *rukūʿ* and *Sujūd* and those which do not have both, such as *Ṣalāul janāzah*.

[39]A person who it marriageable to her. One who is not within prohibited degree of relationship to her in marriage.

[40]If it is an obligatory prayer and he has competed it, and not if it is a voluntary ritual prayer.

[41]For it to be valid, it has lo be done normally while standing and facing the *qiblah*. If these conditions are omitted without valid excuse, then the consecration - Allah Akbar is not validly made.

with intention, not saying the *takbīr* in any language other than Arabic; while another is that he starts the worship saying the *takbīr* in his own language.

2. Intention, that is that he should determine within his mind that he is starting a definite prayer. The determination should accompany the saying of the *takbīr*. It is not necessary to mention, in the intention, the number of *rakʾah* of the prayer.

3. Recitation of *Sūratul Fātiḥah* (the Opening Chapter of the *Qurʿān*)[42] for the Imam and a lone-worshipper.

4. Standing for the commencement and recital of Fatihah.

5. The bowing. It is done perfectly by making the back and the neck be at the same straight level; straightening the knees and placing the two hands on both knees. A male keeps his upper arms away from his sides, he does not raise or lower his head rather he straightens his back.

6. Prostration, It is done by resting his forehead, nose, knees and his toes on the ground[43].

7. Rising from the bowing (*rukūʿ*)

8. Rising from the prostration. If a worshipper omits the rising he would have to re-perform it[44].

9. Sitting for the *taslīm*[45] and its duration is the time sufficient for settling down on the posture and for uttering the salutation.

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[42] Chapter one of the Glorious *Qurʿān*.

[43] The palms are included in some sound traditions of the prophet.

[44] Whether it is the whole prayer or the rising that would be reperformed depends on how soon thereafter he remembers the omission.

[45] Terminal salutation.

10. Terminal *taslīm*. And its formula is *as-salāmu ʿalaykum* and any other formula is not proper for its purpose. The Imam and the lone-worshipper is not expected to do more, but the follower of an Imam[46] would direct the *taslīm* towards his right side, then toward his front intending it as a response to the (*taslīm* offered by the) Imam; and he then directs another *taslīm* to his left side if there is a worshipper there; as a response to the *taslīm* of the person on his left. It is preferred that the *taslīm* of response should be said with the same formula for the *taslīm* of disengagement. It is not required of a worshipper to give special intention of termination of the worship, for his *taslīm*. In contrast to that is the opinion that he has to make the intention. To this, (school of thought) the Imam has to intend, with his *taslīm*, the disengagement from the worship, the extension of greetings (*taslīm*) to the angel and to his followers. The lone-worshipper has to intend, by his *taslīm*, extension of *taslīm* to the angel.

11. Clear and distinct demarcation in the postures in between the principal postures.

12. alming down (not to be in a hurry) in all the principal acts of the worship, be it its standing, its bending down or its prostration, as well as in the rising' from each of them and the rising in-between the twin-prostrations. The difference between *at-tumaʿninah* (calming down) and *al- ʿitidāl* (be erect or straight) is that the latter is applicable to the standing posture such as to be straight and parallel while the former is to make the affected parts of the body settle down.

13. Sequences of the acts, this is that the ritual commencement should precede the recitation, the recitation before the bending

[46] A member of the congregation.

(*rukūʿ*), the *rukūʿ* before the prostration" (*Sujūd*) and the *Sujūd* before the *taslīm*.

14. Continuity. For it is obligatory that the component acts of the worship and its principal postures should follow one another without any interruption.

Sunnah Acts of Ritual Prayer

The Sunnah acts of ritual prayer are eighteen:

1. Recitation of a *Qurʿān*ic chapter or what stands in for it[47] after the recitation of *Sūratul Fātiḥah*, during the *Ṣubh*, the *Jumuʿah* Friday; and the first two rak'ats of other daily obligatory ritual prayers[48] .

2. Standing up for the recitation.

3. Reading aloud in the first two *rakʾah*s of Magrib and *ʿishā* prayers and the whole of *Ṣubh*, *shaf'* and *witr*; *Jumuʿah*; the two 'id prayers; midnight superogatory prayers and the special prayer against draught.

4. Silent recitation in all others. Silence is the one that no ear can grasp while loudness is the contrast.

   NOTE: There is no harm if the worshipper reads a verse or two verses silently where they are supposed to be loudly recited or recite loudly in place of being silently recited, whether it is deliberate or out of forgetfulness; but if he recites more than two verses and he remembers before placing his hands on his knees, he would re-recite the Fatihah and the chapter but if he remembers only when he had placed his hands on his knees, he would not go back to it because, according to *ʿibnul-Qasim*,

[47] Such as a Quranic verse(s).
[48] *Ẓuhr*, *ʿasr*, *Maġrib* and *ʿishā*.

rakʾah is completed by raising of head from the *rukūʿ* except in certain cases one of which is this: wherein a *rakʾah* is completed by placing the hands on the knees. As to the question of when the worshipper deliberately abandons reciting loudly where it is necessary, some scholars said he would seek forgiveness from Allah the Most High and there is no penalty for it, while others opined that his *Salāt* becomes void because this is belittling of prophetic practices and it is just like neglecting an obligatory act.

5. All *takbīr*at except the *takbīr* of ritual commencement, are *Sunnah* acts.

6. The first major sitting of a prayer that requires two major sitting.

7. The first *At-tashhud* (testimony).

8. The second *At-tashhud*.

9. The articulation of the prescribed formulae thus: "All greetings are for Allah, good deeds are for Allah, Allah the most decent blessings are for Allah; Peace, mercy and benevolence of Allah be on you, oh prophet. May peace be upon us, too, and upon all the righteous servants of Allah. I bear witness that there is no deity worthy of worship except Allah. He is alone and has no partner. I also bear witness that *Muḥammad* is His servant and Messenger".

10. Invoking blessing on the prophet (blessing and peace of Allah be upon him) in the last tashahud. The formulae is[49]: Allah bless *Muḥammad* and his family, as you have blessed Ibrahim and his family. And give benediction to *Muḥammad* and his family as you have given benediction to Ibrahim and his family

[49] It has to be recited in Arabic.

amongst the inhabitants of the world. You are indeed praiseworthy and glorious."

11. The statement "Allah hears whoever praises Him[50] " made by the Imam and the one-worshipper.
12. Response to salutation from the Imam.
13. Response to the salutation from the worshipper on one's left side.
14. Saying loudly only the terminal salutations[51].
15. Listening to the Imam when he recites loudly.
16. The screen[52] for the Imam and lone-worshipper. One who passes in front of a worshipper has committed a sin, if he has an alternative route.
17. Sitting a bit in excess of what is the bare necessity for the utterance of *taslīm*.
18. A bit of increase over and above what is barely required for calmness.

Desirable Acts in Ritual Prayers

The desirable acts in ritual prayers are more than thirty:

1. he recitation of the one who follows an Imam when he (Imam) recites silently.
2. Raising the two hands parallel to the shoulders at the commencement of the prayer when the *takbīr* of commencement alone is uttered.

[50]Ibid.
[51]The second and third are to be said silently.
[52]A wood or any object. This is to avoid direct passage in from of either of them.

3. Lengthy recitation during *Ṣubh* and *Ẓuhr*, but longer in the case of *Ṣubh*.

4. Short recitations during *ʿasr* and *Maġrib* prayers.

5. Moderate recital during the *ʿishā*.

6. Making the length of the second *rakʾah* shorter than the first *rakʾah*.

7. Making the first sitting shorter than the second sitting.

8. The statement "Oh Allah all praise is due to You", when the Imam says "Allah hears him who praises Him," and for the lone-worshipper after he himself might have said the former formula.

9. Glorification of Allah during bowing (*rukūʿ*) and prostration (*Sujūd*).

10. Saying of "*Āmin*" silently after the end of suratu l-fatihah, (with moderate elongation of 'A' in "*Āmin*.") It is a name of Allah, the Most High, and the "nun" is in the nominative because it is preceded by an assumed article of invocation. The implied statement is "Oh you *Āmin* accept our supplication." A worshipper behind an Imam would not say Āmin in any worship wherein the recitation is not audible, except if the said follower is able to hear the recitation.

11. Recitation of *al-Qunūt*[53] during the *Ṣubh* prayer alone, after the recitation of the second *rakʾah*, before the *rukūʿ* and silently. The formulae is, "Oh Allah, we seek your assistance and forgiveness. We believe in You and rely on You. We attach to You all good things. We thank You and do not disbelieve You.

[53] Pledge of absolute obedience to Allah to the absolute exclusion of all others.

We submit to You, we repudiate and abandon whoever disbelieves in You. Oh Allah, it is You we worship, to you we offer canonical worship and before you we prostrate, To you we hasten and we long for your Mercy and are fearful of Your severe punishment. Surely your punishment is upon the unbelievers.'

12. The supplication after the second tashahhud.

13. That the two hands should precede the knees when moving towards prostration.

14. Making the lifting of the two knees precede the lifting of the two hands when rising from the prostration.

15. Folding of the little finger, the ring-finger and the mid-finger of the right hand and leaving unfolded the index-finger and the thumb during the two tashahhud.

16. Continuous side-ways movement of the index finger, symbolizing with it the expulsion of satan, while the left hand is stretched.

17. Placing the two hands on the knees during the bowing.

18. Placing the two hands parallel or close to the two ears during prostration.

19. For a male worshipper to leave a gap between his knees, his elbows, upper arms (from the sides) and thighs during the prostration.

20. Saying of *Allāhu Akbar* at the commencement of every component act of the prayer except during the standing up from the sitting after second *rakʾah* in which case, one is expected to say *Allāhu Akbar* only after one must have stood up straight and erect.

21. Sitting on the hip during the two sittings, and in the sittings in-between the two prostrations. This is done by planting the left hip on the ground, bringing out completely the two legs from the right side, putting the right foot on a vertical position and with the inner part of the right big toe placed on the ground while the left leg is placed in a horizontal position.

22. Placing the two hands on the thighs.

23. Turning of every worshipper towards the right while pronouncing the obligatory *taslīm*. This is done by pointing, with the head, towards the front while turning the face slightly towards the right side whereby it is possible to see (from the right side) only a side of one's face.

24. Gazing straight at the point on which the head rests during prostration. While in the standing posture, he should direct his gaze at the point whereon he will prostrate.

25. Touching directly with the head and the palms, the ground or what grows from it.

26. Walking to the worship with dignified bearing and calm.

27. Straightness of the rows.

28. Leaving out the saying of *Bismillāhir-Raḥmānir-Raḥīm* (In the name of Allah the Beneficent The Merciful) during obligatory ritual prayer.

29. Chanting, after the *taslīm* of disengagement from the prayer, certain specified formulae of Allah's remembrance, such as recital of the following: the verse of the throne[54] *tasbīḥ* (expression of Glorification of Allah), 33 times, *taḥmīd* (expression of Gratitude to Allah) 33 times, *takbīr* (expression of the

[54] The glorious *Qurʿān* 2:255

greatness of Allah) 33 times and making it complete 100 (33 x 3 = 99) with the statement "There is no deity worthy of worship except Allah, He is alone, there is no partner for Him, to Him belongs sovereignty and praise and He is capable of all things."

Detestable Acts

It is detested to offer supplication after the *takbīr* of commencement of worship; during the *rukūʿ* (bowing) or during the first tashahhud so also is the saying of *taʿawwudh*, i.e., *ʿaʿūdhu billāhi minna sh-shayṭānir rajīm* (I seek refuge from Allah against satan, the accursed) and the saying of *basmalah*, i.e. *Bismillāhir-Raḥmānir-Raḥīm* (In the name of Allah the Beneficent the Merciful), at the commencement of an obligatory (ritual prayer). Others are prostration on a carpet, scalf, similar items or tip of a dress; looking here and there without necessity, crasping or cracking the fingers and playing with one's ring or beard. So also are closing of eyes, raising one face towards the sky, putting the two feet together, the placing of hand on the waist; thinking and ruminating over worldly matters; carrying something on one's sleeve or in the mouth, worshipping in the path of people who will pass in one's front, and killing of fleas and lice in the mosque.

Vitiation of Ritual Prayers

Ritual prayer is vitiated by leaving out any of its conditions while the worshipper is capable of doing it. Other vitiators of *Aṣ-Ṣalaḥ* include: leaving the *takbīr* of commencement of worship, intention or any similar principal elements of worship, and deliberate abandonment of a *Sunnah* act. Others are talking for any purpose other than the rectification of the prayer; lot of work, not belonging to the prayer, such as long walking, not a short walk such as a walk to put

a screen to bridge a gap or a signal. Scratching of the body is also exempted.

Eating and drinking absolutely vitiate ritual prayer[55]. Extra elements of ritual prayer (such as *rukūʿ* and *Sujūd*) vitiate ritual prayer if the excess is done deliberately or out of ignorance. In the case of forgetfulness, the ritual prayer is vitiated only if the increase is relatively substantial, such as an increase of two *rakʾah*s for *Ṣubh* and four *rakʾah*s for each of *Ẓuhr*, *ʿasr* and *ʿishā*.

When a person offers a complete ritual prayer in perfect conformity with the rules of the prayer but he cannot distinguish which of the component acts of the ritual prayer are obligatory, *Sunnah* or merely desirable acts, it is opined in certain legal circles that the prayer of such ignorant person is void but the soundest opinion is that the prayer is valid on the condition that the ignorant worshipper had learnt the procedure from a learned scholar.

Prostration for Oversight

Sujūd for oversight is a *Sunnah* act for the rectification of omission of any component-act that is emphatic *Sunnah*.

The emphatic Sunnah are eight:

1. Recitation of other than *Sūratul Fātiḥah*.
2. Loud recitation.
3. Silent recitation.
4. Saying of any *takbīr* other than the *takbīr* of commencement.
5. *Taḥmīd*.

[55] Some jurists opined that it is only when such drinking; or eating is done deliberately.

6. The first Tashahhud.
7. The sitting for the first tashahhud.
8. The last tashahud.

No prostration for rectification is required for the omission of any *Sunnah* act which is not an emphatic *Sunnah*, nor for any supererogatory act such as *al-Qunūt* (pledge of submission) in *Ṣubh* prayer. If a prostration for rectification is made on account of any of the two the prayer becomes void. Prostration for rectification is not applicable to the omission of an obligatory act such as the *takbīr* of commencement or extra utterances such as which does not normally vitiate prayer, such as a short talk done out of forgetfulness or an extra act which does not vitiate prayer such as forgetful increase of a *rakʾah* in a four *rakʾah* prayer or a little turn away from the ritual prayer out of forgetfulness.

The point of the *Sujūd* for oversight differs. If it is only for the rectification of an undue increase, the worshipper would prostrate after *taslīm*[56] . If it is on account of omission or a combination of addition and omission, then he would prostrate before *taslīm*. 90a It is done as follows: Two *Sujūd* which are accompanied with *takbīr*. He repeats the tashahhud. In the case of *Qablī*, then he pronounces the *taslīm*. If a follower-worshipper forgets anything in his prayer behind an Imam, the latter legally relieves him of the burden. Conversely, the prostration for oversight by the Imam compels the follower to make the prostration, though the follower might not have omitted anything. This would be so, even if he had not yet come into the congregation by the time the omission or commission was made.

Congregational Ritual Prayer

Congregational prayer is an emphatic *Sunnah*, one does not acquire its merit except by catching up with at least a *rakʾah*, with its two

[56]Technically called *Baʿdī* (that which comes after).

Sujūd. Whoever attains a *rakʾah* should not repeat the same ritual prayer in another congregation. A congregation is made up of two or more persons. Anyone who offers his prayer alone, or one who does not meet up to a full *rakʾah* behind the Imam, may re-offer the prayer in a congregation, or with another person as a follower-worshipper, with the intention of leaving for Allah the matter of which of the two prayers is chosen, provided the concerned prayer is not *Maġrib* prayer, or *ʿishā* when the *witr* had already been observed. Whoever is in a mosque when a particular ritual prayer is about to be said congregationally shall not commence that or similar ritual prayer separately, whether the ritual prayer is obligatory or optional.

Requirements of Imamship

The requirements for being an Imam are nine:

1. Purification. The Imamship of a person who leads the prayer while he was conscious of the fact that he was in a state of impurity, is not valid.

2. That he is not at the same time a follower-worshipper. The worship of a person becomes void if he erroneously offers his prayer following a person who had met and performed a portion of the prayer behind an Imam or a person who himself is a follower-worshipper, but mistaken for an Imam.

3. Islam.

4. Male The Imamship of a female is not in anyway valid.[57]

5. Maturity. The Imamship of a minor in an obligatory ritual prayer is not valid except for his group of minors.

6. anity. The Imamship of an insane or a drunkard is not valid.

[57] Except for an all female congregation.

7. Freedom - This is a condition in *Jumuʿah* prayer.

8. Freedom from viciousness. The Imamship of an adulterer or a consumer of liquor is not valid.

9. Capability of performing the basic elements of the prayer. The Imamship of a person who is incapable of bowing, for instance, is not valid except when all the followers too are similarly incapable. Similarly the Imamship of a person who is not conversant with the principles governing prayer, is not valid, except for people of his category. There are different opinions on the validity or otherwise of the Imamship of one who cannot distinguish (the arabic letters) daad from "Za[58] as well as the Imamship of one who has grammatical lacunae (An empty space or a missing part; a gap). [59] A prayer behind a person who belongs to another school of law, such as a follower of *Mālikī* school behind a follower of *Shafiʿ* school, is valid.

Conditions for the validity of the ritual prayer of one who worships behind an Imam

The conditions governing the validity of the ritual prayer by one who worships behind the Imam are five:

1. Followership. That he makes the intention that he is a follower of the Imam and that his own prayer is in accordance with that of the Imam. Thus if he follows the Imam without the intention of following the Imam his prayer is void.

2. Person who owes an obligatory ritual prayer shall not seek to accomplish it with a congregation (or an Imam) that is performing an optional prayer.

[58]In Nigeria it is not uncommon to find an Imam with linguistic impediment, who pronounces lam instead of daad or sin instead of Zad Wc are of the opinion that such linguistic peculiarity does not invalidate the Imamship of such persons.

[59]With a proviso that the error does not seriously affect the intended meaning.

3. That the obligatory prayer of the two (that of the Imam and the follower) be identical; either in the case of the *Ẓuhr* and *ʿasr* prayers or any other similar obligatory prayer. *Ẓuhr* prayer should not be performed behind the Imam who is performing *ʿasr* or vice versa.

4. That there should be uniformity in its being offered at the right time or compensatorily.[60] A *Ẓuhr* prayer, for instance, cannot be performed by someone who is compensating for it behind a person who is performing it within schedule, or vice versa.

5. Succession in the commencement and pronunciation of terminal *taslīm*, i.e. if a worshipper commences the prayer or pronounces the *taslīm* before or at the same time as the Imam does; in each case, his prayer is vitiated. As for one who precedes the Imam in doing other acts, his prayer is not voided on that account . However such is improper . It is reprehensible to do the acts simultaneously with the Imam.

Desirable elements of Congregational Prayer

It is preferred that a single person performing ritual prayer with an Imam should stand to the right of the Imam; but two or more followers should stay behind the Imam. The prayer of a follower-worshipper who stays in front of the Imam, is valid, though the act is reprehensible if it is not out of necessity.[61]

The prayer of a follower-worshipper who stays alone behind the row is valid; it is however reprehensible to divide the rows without any excuse. It is permissible for the one being led in ritual prayer to be on a higher plane than that of the Imam, except if is purposely done out of pride, in which case his prayer becomes void. It is not

[60] Compensation is used for a prayer which is being observed after the expiration of its prescribed time.

[61] Such as lack of space.

proper for the Imam to worship on a place higher than the place of his congregation except in a ship.[62] If the difference is minimal such as a span of the hand, and it is not out of pride, then the prayer is valid. However, if the difference is more than a span of a hand, the prayer of both the Imam and the led becomes void.

Obligation of Friday Worship

Friday prayer is an individual obligation. For a person coming from a far, it is compulsory to start moving towards it, (the mosque) before the call is made, at a time sufficient for its attainment, (i.e. meet the prayer). As for the one in the neighborhood of the mosque, it is obligatory for him to start the movement as soon as the sun passes the meridian, it is believed, elsewhere, that it is as soon as the call is made.

The conditions for its becoming obligatory are seven:

1. Liability. It is not obligatory on a minor, an insane or similar persons.

2. reedom. It is not obligatory on a slave or partially freed slave; though it is recommended for the latter. It is also recommended that the young ones should attend it.

3. Masculinity. It is not obligatory on a female.

4. Residence. It is not obligatory on a traveler except if he intends to spend up to four days in the place.

5. To be held in a place where people normally dwell.

6. The prospective worshipper should; at the time of the ritual prayer, be in a place not more than three miles (4.8 kilometres)

[62]Provided such situation is not forced on them by necessity.

away from the mosque.[63] This is the extent to which a high voice may be able to reach if the wind is silent and there is quiet while the caller has a sonorous voice. The three-mile distance would normally be from the minaret. Others opined that it should be from the outskirt of the town. A mile, according to popular opinion, as shall be seen later, is made up of a thousand cubits. The fixation of the mentioned distance is applicable only to one who is outside the town where the Friday prayer is to be held; but as regards he who it within the town, the attendance and performance of *Jumuʿah* are obligatory on him, even if he is six miles or more, away from the mosque.

7. Sound health, it is not obligatory on a sick person, but if he recovers before the Friday prayer is held, it becomes mandatory on him.

Essential Conditions for the Validity of a Friday Ritual Prayer

The holding of Friday ritual prayer has four essential conditions. They are:

1. A resident Imam. It is not valid, if done individually or if led by a traveler-Imam.

2. The congregation. It has no fixed number of members but it is not proper for three, four or similar number of people; rather it has to be with a number that is sufficient to make an independent and self reliant village. The issue of number is necessary only for the commencement and not the continuity of the service. If some of those being led in prayer abandon the Imam, and only about twelve followers remain up to the time of the

[63] The length of a mile varies from place to place. 3 english miles are equal In 4.8 km.

utterance of *taslīm* by the Imam the prayer is valid, but if not up to that, it is not valid.

3. The central mosque. It is not valid in any other place, not even on the roof-terrace of the mosque, nor inside the dome. It is valid, for other than the Imam, in a place that amounts to the central mosque, such as its surrounding, its attached passages once the lines are not disjointed, and the mosque is crowded.

4. Sermon before the worship. The sermon is not properly delivered except with the arrival of a congregation that is large enough to constitute a Friday congregational prayer.

Desirable Practices Connected With Friday Prayer

The following are desirable for Friday prayer: Adorning oneself with beautiful clothes; Clipping of the mustache; Paring of the nails; Cleaning the teeth; Applying scent and similar desirable acts[64]

Miscellaneous Provisions on Friday Prayer

Obligation of Friday prayer is removed by any of the following; illness that prevents its attendance, or which makes its attendance very difficult; taking care of a sick close relation or fear of a persecutor who may harm one's wealth or one's person; fear of fire, a thief or of being arrested by one's creditor while one is sincerely incapable of payment; much mud, heavy rain fall, the eating of garlic[65] and (exposure) of nudity[66]

[64] Such as removing the hair of the armpits and shaving the pubic region. See: *Risālah*, p. 156

[65] Anything with repulsive odour, such as cigarette is not to be taken along, not the remnant of its odour, to the *Jumuʿah* mosque.

[66] A female's nudity is her whole body except the face and the nads while that of a male is what falls between his navel and his knees.

Prayer while on a Journey

(Shortening of) ritual prayer while on a journey is a prophetic practice. It has a cause, conditions and circumstances. Its cause is every long journey that is up to four *barīd*s.[67] A *barīd* is four parasangs. A parasang is three miles.[68] A mile is a thousand cubits.[69] The span of the journey on which prayer could be shortened is thus sixteen parasangs and this amounts to forty-eight miles.[70]

Its conditions are four:

1. The distance to be taken into account should be one way only.[71] Thus the return journey would not be taken into account in calculating the said forty-eight miles, rather the return journey is regarded as a separate one.

2. Determination, right from the beginning of the journey, to make such a long distance uninterrupted.

3. Commencement of the journey. A resident, at the commencement of a journey, would begin to shorten his prayer after passing the suburb villages adjacent to the town. A rural dweller would commence the shortening when he passes his way stations that is, the houses where he seeks shelter. One who resides on a mountain or hamlet where there are neither buildings nor villages, would start the shortening as soon as he departs his house. The terminal point for the shortening of prayer on

[67] The plural is *burūd*.

[68] See footnote 97

[69] A cubit is 68m so 1,000 cubics is 680 metres which is less than a kilometre. This explains our earlier opinion that 'mile' has varied measurement.

[70] Approximately 76.8 kilometre.

[71] A journey of which the traveller spends more than three days on transit cannot be regarded as valid for the purposes of calculating the distance and the permissibility of shortening of ritual prayers.

the return journey is the starting point for the commencement of the shortening on the way out.

4. Lawfulness of the journey. One who travels for pleasure such as hunting without a necessity, or one whose journey is sinful, such as a fleeing slave or a person who unlawfully disobeyed his parents cannot shorten his prayer. The appropriate situation is any prayer with four *rakʾah*s which falls due during the journey . *Ṣubh* or *Maġrib* prayers cannot be shortened . An appropriate prayer that is due during the journey may be shortened whether it was performed during the journey or repaid when one had arrived, just as any prayer that is due while one is still at home, shall be fully performed, whether it is performed while still at home or repaid during the journey. Shortening shall cease after a stay of four full days in a place.[72]

   USEFUL HINT: It is valid for a traveler to perform his prayer being led (in a congregational prayer) by a resident or vice versa, it is, however, reprehensible. The reprehension is more emphatic in the case of a traveler being led by a resident. If the traveler however worships behind the resident, it is mandatory on him to follow the Imam throughout . He would not repeat the prayer. If a resident prays behind a traveler, each of them would conform to the appropriate practice of his own situation; thus the traveler would perform what is obligatory on him (i.e. 2 *rakʾah*s) when he utters *taslīm* at the completion of the two *rakʾah*s, the resident would perform what remains to be performed, of his own prayer.

Combined Prayers

Combination of two close prayers is a concession, if it is on land and not on sea. When the sun passes the meridian and a traveler is at a

[72] After the observance of twenty obligatory daily prayers.

place of watering or he is still on his mount (animal or vehicle) and he intends to alight from his mount after sunset, he would have to literally combine two prayers. The early afternoon prayer az-*Ẓuhr*, would be performed at the end of its prime- time and the late afternoon prayer al-*ʿasr*, at the beginning of its prime time. The same applies to a situation when the traveler would alight at after the sun has turned pale but before sun-set.

Sun-set (*Al-Maġrib*) and night prayer (al-*ʿishā*) may be combined on account of rain alone, or rain which is accompanied by darkness and mud and not when the rain is accompanied by only darkness. There are two different famous opinions on whether or not the two prayers could be combined on account of mud alone. The combination is done by making a call for sun-set prayer in the minaret at the beginning of its prescribed time; thereafter the performance of the prayer is delayed a bit, then the call for night prayer is made inside the mosque in a low voice, then the night prayer is performed before the disappearance of the twilight, then the worshippers disperse. The *witr* cannot be performed until after the disappearance of the twilight.

Emphatic Traditions in Ritual Prayer

The prayers that are emphatic prophetic traditions are four:

1. The most emphatic one is *witr* prayer. It is made up of only one *rakʾah*. Its prime-time falls due after the performance of the obligatory night prayer. It is preceded by *shaf'* which is demarcated from it by the utterance of "Assalam 'alaykum." It is recommended that on the first *rakʾah* of *shaf'* (after the recitation of *Sūratul Fātiḥah*), *Sabbih Īsma Rabbika*[73] be recited, and recite on the second *rakʾah* (after the recitation of *Sūratul Fātiḥah*) "*Qul-Yā Ayyuha l-Kāfirūn*".[74] And the *witr* prayer is

[73] *Qurʿān* 87
[74] *Qurʿān* 109

to include "*Qul huwa Allāhu Ahad*" and *al-Muʿawwidhatayn*.[75] Whoever forgets to perform *witr* or sleeps off only to wake up when the period before sunrise is only sufficient for the performance of about one or two *rakʾah*s would abandon the *witr* and perform the *Ṣubh*[76] prayer . If the duration before sun-rise is sufficient for the performance of three *rakʾah*s or four, he would perform the *witr* and then the *Ṣubh*. If the time is sufficient for five *rakʾah*s. he would perform *shaf'* , *witr* and the *Ṣubh* prayer but leave out the day-break prayer.[77] If it is sufficient for seven *rakʾah*s, he would perform *shaf'*, *witr* , day-break (fajr) prayers and then the *Ṣubh* prayer.

2. The prayers of the two festivals ('Id). The 'Id prayer is an emphatic tradition for one on whom *Jumuʿah* is due. It is a meritorious act for a slave, a traveler or a woman. It is two *rakʾah*s; with neither call to prayer nor *ʿiqāmah* (commencement of prayer formula). In the first *rakʾah*, *takbīr* of commencement shall be done six times apart from the initial one. For the second *rakʾah*, there are five *takbīr*at apart from the one with which one comes up to the standing posture. It is not recommended that one should raise one's hands while uttering the *takbīr* except for the initial one for commencement. If the worshipper forgets the *takbīr* he would return to perform it, provided he had not placed his hands on his knees for bowing, and he would thereafter prostrate after the utterance of the terminal *taslīm* (*Baʿdī*).

   It is desirable that the *takbīr* be made aloud. It is desirable to use scent. And anyone who is capable of doing so, should wear new garments, while the return trip from the prayer-ground should be through a route other than the one through which

[75] *Qurʿān* 112, 113 and 114 respectively.
[76] For a *Sunnah* cannot be allowed to lead to the omission of an obligatory prayer.
[77] Fajr prayer.

one goes to the prayer-ground. Also desired are that one should take breakfast before going to the prayer ground for the *ʿidu ʿl-fitr*[78] and to delay break-fast till after the prayer in the case of *ʿidu ʿl-kabīr*.[79] It is desired as well that Glorification of God should be consistently made at the end of each of the fifteen obligatory prayers coming immediately after the *ʿidu ʿl-kabīr* prayer. The first is the early afternoon prayer (az-*Ẓuhr*) on the day of the slaughtering and the last is the *Ṣubh* prayer of the fourth day after the 'Id day. The formula[80] should be: Allah is the Greatest, Allah is the Greatest, Allah is the Greatest. There is no deity except Allah. And Allah is the Greatest, Allah is the Greatest, Allah is the Greatest. And all praise is due to Allah.

3. The prayer on occasion of the eclipse of the sun. It is a prophetic tradition for everyone who is with legal discretion (i.e. mature, sane and conscious), male or female . It is desirable to perform it in a mosque congregationally (without '*adhān* or *ʿiqāmah*) . Its time is as soon as it is time when *Nāfilah* is normally allowed up till when the eclipse disappears. Its performance is made up of two *rakʾah*s; each *rakʾah* with two bows (*rukūʿ*). It is with neither '*adhān* nor *ʿiqāmah* . During the first standing[81] of the first *rakʾah*, the worshipper recites after *Sūratul Fātiḥah*, Suratu 'l-Baqarah;[82] and during the second standing of the first *rakʾah*, after *Sūratul Fātiḥah*, he recites Suratu Al-'Imran.[83]

   During the first standing of the second *rakʾah*, after the recital of *Sūratul Fātiḥah*, he recites Suratu n-Nisa[84] and in the sec-

[78] It falls on the first of *Shawwal*.
[79] Greater 'Id. It is observed on the 10th of Dhul Hijjah.
[80] It is usually recited in Arabic
[81] Note that each *rakʾah* has two standings
[82] *Qurʿān* chapter
[83] *Qurʿān* chapter 3
[84] *Qurʿān* chapter 4

ond standing of the second *rakʾah*, after the recital of *Sūratul Fātiḥah*, he recites *Sūratu ʿl-Māʿidah*.[85]

The prayer on occasion of the eclipse of the moon is a prophetic tradition. It is performed as other supererogatory prayers, in two *rakʾah*s,with one bowing, one standing in each *rakʾah*, and the recital in the two *rakʾah* are made aloud and it is not done congregationally.

4. The ritual prayer for seeking rain. It is for seeking good harvest or water for drinking by animals, human beings and for such other purposes. It is performed, like other supererogatory prayers, in two *rakʾah*s and with loud recital in the two *rakʾah*s.

Fajr (Daybreak) Prayer

The two-*rakʾah* day-break-prayer is meritorious and it requires a definite explicit intention. Its time is at the appearance of the morning twilight. Whoever enters the mosque while the Imam is performing the *Ṣubh* prayer shall abandon day-break (Fajr) prayer and join the Imam in the *Ṣubh* prayer. If the prayer is commenced while he is in the court-yard of the mosque, he would perform the Day-break prayer, provided he does not entertain the fear of missing a *rakʾah*, if he entertains it, he would join the Imam in the performance of the *Ṣubh* prayer. It is desirable to read only *Sūratul Fātiḥah* in the two *rakʾah*s.

Supererogatory Ritual Prayer

Meritorious prayers are:

[85] *Qurʿān* chapter 5

1. *Ṣalatu ʿḍ-Ḍuhā* Forenoon ritual prayer consists of a maximum of eight *rakʾah*s.

2. Mosque salutation prayer, is of two *rakʾah*s. It is performed before a worshipper sits down. Sitting down without its performance does not absolve one of its performance.

3. *Tarāwiḥ* prayer during the nights of *Ramadān*. It is made up of twenty-three *rakʾah*s inclusive of the *shafʿ* and *witr* .

4. The supererogatory prayers before and after early afternoon prayer (*Ẓuhr*), before late afternoon prayer (*ʿasr*) and after sunset (*Maġrib*) prayer and *ʿishā*. There is no specification of number as regards these, rather the worshipper performs as many as he is able.

5. Prostration during the recitation of the *Qurʿān* by the reciter[86] and one who is listening to the recitation intentionally, provided the reciter is fit to be an Imam (spiritual leader in prayer) by being a male, matured, and with valid ablution; and not one whose purpose is to make people (appreciate) and note the excellence of his mode or manner of recitation. There are eleven prostration points in the *Qurʿān*, excluding those in *Sūratu ʿn-Najm*, *Sūratu ʿl-īnshiqāq*, *Sūratu ʿl Qalam* and the second prostration in *Sūratu l-ḥajj*.[87]

Funeral Ritual Prayer

Funeral ritual prayer is a collective obligation.[88] It is said by some scholars that it is a prophetic tradition.

[86]The reciter must be pure from impurities, cover his/her nudity while his/her dress free of physical and ritual impurities.
[87]*Qurʿān* 53, 84, 68 and 22 respectively.
[88]If it is done by a group of people the obligaion on others is removed.

Its principles are five:

1. Intention.

2. Standing.

3. *Takbīr*. They are four. If the Imam makes the fifth, the prayer is not vitiated on account of that; but those praying behind him shall not say the fifth with him; rather they would pronounce the *taslīm*. They need not wait for the Imam (in the pronouncement of the terminal Assalam 'Alaykum). It is desirable to raise the hands only in the first *takbīr* and to start the ritual prayer with "All praise is due to Allah" (al-Fatiha).

4. Offering supplication for the dead, immediately after every *takbīr*, in any possible form of supplication. No specific formulae is required, for the said supplication.

5. *As-salām*. The Imam is required to pronounce "*as-salāmu ʿalaykum*" once, turning his face slightly to right and loud enough for him and those behind him to hear. The follower-worshipper would pronounce the *taslīm* audibly enough for himself alone to hear. He does not make response of *taslīm* to the Imam.

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Chapter 3
Az-*Zakah*

Zakah (Due) is a term used for a specific rate taken at a specified time from a specific amount at a specific level, and expended on specific areas. It is obligatory on every free *Muslim*, male or female, young or old, sane or insane. The *niṣāb*[1] of gold[2] is 20 *dinār*s[3] while that of currency is 200 dirhams.[4] The payable due in each case is 2.5 percent once it has been fully possessed by the payer for one full year.

Zakah on Live-Stock

Under this category are camels, cows, sheep and goats be they fattened or left to go out for gazing, whether engaged or idle. *Zakah* is not due on animals such as horses, mules, donkeys as well as on slaves. Gazelle and sheep in the throes of giving, birth are also excluded.

The conditions which make Zakah mandatory are:

1. Attainment of a minimum assessable amount or number.
2. Full ownership.
3. Being in one's possession for a whole year as at the time when the collector, if there is one, arrives.[5]

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[1] Legal minimum assessable amount.
[2] That is mineral resources.
[3] A *dinār* is about 51.3 U.S. Dollars.
[4] The value of a dirham is about 5.13 U.S. Dollars.
[5] If the collection is organized one year would mean the first time that the collector

Zakah on Camel

On every five camels a young sheep is due. This is one in its 2nd year. It is to be a young sheep if sheep are as common as or more than goats in the locality but if goats are more common than sheep then a young goat shall be (suffice). This is what should be given out up to (and including when) the number of the camels reaches nine.

When the number reaches ten, and up to fourteen, then two sheep shall be issued. When the number reaches fifteen three sheep shall fall due until the number reaches nineteen. When the number is between twenty and twenty-four, the two inclusive, then the due shall be four sheep. When the number reaches between 25 and 35, then the due from it is a young she-camel, it is a she-camel in its second year, if the payer does not have such a she-camel, then a he-camel that is in its 3rd year. When the number is between 36 and 45, a weaned she-camel[6] is due. When the number reaches between 46 and 60 a mature (capable of bearing pregnancy and male-crossing) she-camel is due. It is the one in its fourth year. When the number reaches between 61 and 75 then the due is a she camel that is in its fifth year. Between 76 and 90, two young she camels are due.[7] From 91-120, then two mature she-camels are due. If the number exceeds 120 the assessment changes.[8] On every 40 a young weaned she-camel is due and for every fifty, a mature she-camel.

Zakah on Cattle

For every 30 heads of cattle a he-calf or she-calf (which has attained two years) is due. Due on every 40 heads of cattle is a three- year old calf. Only its female shall be taken. That is, a three year-old.

(who normally goes around anually) comes after the wealth has been possessed by the prospective payer.

[6]A three-year old one.

[7]Two ? 1 year old camels.

[8]Every additional 10 increases the due.

Thereafter up to 120. the due on every 30 heads of cattle is 2 years old calf and from every 40, a mature 3-year old calf. The collector may choose whether to take 3 three-year-old mature calves or 4 two-year old calves on 120 heads of cattle.[9]

Zakah on Goats and Sheep

On 40 sheep or goats, the due is a young ram or sheep. It may be sheep or he-goat. It must have been a year old. Out of 121 goats, the due will be 2 sheep.[10] On 201, three sheep are due.[11] On 400, 4 sheep are due.[12] Beyond 400, on every 100 sheep or goats, one sheep is due.

NOTE: It is not proper to select as *Zakah* the choicest of the flock or herd, such as the specially fattened, the stallion or the most milky one. In the same vein, it is improper to select the worst or of least value of them such as an infant lamb, he-goat, old goat or a handicapped animal.

Zakah on Farm Produce

It is (applicable only to) the farm produce which is a staple food. Thus, *Zakah* is due on wheat, barley, rice, and similar items. It is also due on pulses or legumes such as lentils, peas, beans, chick-peas, dates, raisins and olives. *Zakah* is not to be taken from canes, reeds, herbs, fig and fruits such as pomegranates.

The *niṣāb* of farm produce is 5 *wasqs* (loads).[13] These five *wasqs*

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[9] The official collector may use 30 or 40 as a unit. The same goes for any number that is divisible by both 30 and 40. The rule is that, to be on the safe side, which ever is costlier should be adopted out of the two methods.

[10] 40 - 120 is in the same category.

[11] 121 - 200 is in the same category.

[12] 201 - 399 is in the same category

[13] Literally loads. Technically it is about 60 sa' One Sa' is 4 muds of the prophet. One mud is an average double handed scoop. (See the Sharhu 'l-Izziyah, op. cit. p. 122.)

are 1,600 Baghdadian *ratl*[14] . Every *ratl* is 128 Makkan Dirham. This (a dirham) is about 55 grains of medium size barley. The said weights would be after the removal of the low quality grains and after its dryness. The due to be taken from farm produce is one tenth, if it is watered without any serious effort, such as if watered by rain. But if irrigated through equipments such as machinery, then the due is a twentieth (1/20).[15]

Explanation of those to whom Zakah can be given

It is paid to any of the eight categories of people mentioned in the statement of Allah: "Alms are for the poor and the pauper . . ." (Q 9:60)

1. The poor is he whose possession is insufficient for his livelihood . If he, too, possesses minimum assessable amount (*niṣāb*) but which is not sufficient for his upkeep and that of his family, he too, should accept *Zakah*.

2. The pauper is more needy than the poor . He is the one who has absolutely nothing . It is a condition for him and the poor that each of them should be a *Muslim* and free from bondage of slavery.[16]

3. The one engaged for the activities of *Zakah*, such as the collector, even if he is rich.

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[14]The *ratl* is 449.28 English grammes; 3.202 Syrian kilogramme, 2.566 Beirut kilogramme; See J.M. Cowan (Ed.), Arabic-English Dictionary, India, 1960,p, 345.

[15]The use of both methods would entail proportional determination as specified in Sharhu'l-'liziyyah op, cit. p. 123.

[16]For the owner of the slave owns all the possession of the slave. However, if the owner does not maintain the slave, the slave can be entitled to it. If possible, the *Zakah* should be used to obtain the slave's freedom first.

4. Those whose hearts are being drawn (to Islam). These are unbelievers (*Zakah* is not to be given to *Muslim*s alone). They are given to attract them to Islam.

5. The slave. He is a *Muslim* slave. He is bought and manumitted and such a slave shall be under the tutelage of *Muslim*s for a period.

6. A debtor. He is one who is indebted, not on account of insolence or viciousness and he does not possess the means of settlement or whose possession is barely what he needs to settle his debt.

7. The cause of Allah. What is meant by this is Jihad other than pilgrimage. So part of *Zakah* could be given out to a warrior (in the cause of Allah), whether he is rich or poor, to be expended on his war.

8. The way-farer. This is a stranger-traveler. He is given on three conditions: That his journey is not criminally motivated; he is poor at the point in which he is, though he may be rich at his town and that he does not find a person to lend him money. (That is if he is rich at home)

Miscellaneous Provision

It is proper to make use of gold in the payment of *Zakah* on currency and vice- versa. It is mandatory to have special intention for the *Zakah*; and to distribute the due within the place at which the *Zakah* is collected. It is not proper to distribute it elsewhere unless there is another place where the poor face more hardship than those of the place of collection, even then, part of the due will still have to be expended in the place of collection; though greater part of it would he passed to those elsewhere whose poverty is more severe.

Setting Aside, of Zakah

A payer sets aside the *Zakah* due at the completion of year, but the due got lost, he would not be liable.[17] If, however, it is removed after the completion of a year, then he is responsible for the replacement of the loss due. If it is set aside, but before it is removed, the principal wealth got lost, he would have to pay it to those entitled to it. Anyone who dies before the payment of his *Zakah*, or anyone who gives a testament to the effect that *Zakah* is due on his property, shall have the due taken from his principal asset. It is desirable that voluntary alms (not *Zakah*) be given in secrecy, and that be expended preferably on close ones and neighbours.[18] It is a strong practice of the prophet that it is given in the month of *Ramadān*.

Zakātu ʿl-fitr

Zakātu ʿl-fitr[19] is obligatory. The prophet (S.A.W) declared it to be so. According to one of the two popular views, it is to be paid on the eve of the *ʿid*. The other view is that it is to be given when the morning-twilight appears on the festival day. The implication of the difference between the two views becomes obvious in the case of he who (between sunset and day-break) dies; gives birth, accepts Islam or in similar circumstances.

It is proper to set it aside, two or three days to the festival. Its obligation does not lapse by the passage of its time of payment. It is not to be given to any other than a poor *Muslim* who is a freeborn. The rate is one sa[20] of the common food item used in the locality. It is to be paid by every responsible; free and capable *Muslim* for himself and on behalf of his *Muslim* dependents who are his relations such as children, or those under him such as slaves and similar others, such

[17] Provided he took enough precaution.

[18] *Zakah* is not to be given to one's dependents.

[19] Alms given at the end of *Ramadān* fast.

[20] Slightly less than a bushell. See Ruxton: op cit. p. 52.

as wife and her domestic servant, even if the wife is rich.

We have deliberately qualified "*Muslim*, capable responsible and free" to exclude unbeliever, slave, incapable person, for whom it is not obligatory. An incapable person is he who does not have up to a Sa' in excess of his sustenance for one day and he finds no one to lend him.[21]

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[21] The last day of *Shaʿbān*. The 30th of *Shaʿbān* may be the first of *Ramadān*, if the month ends on the 29th.

Chapter 4
Fasting

Fasting is restraint from the passions of the stomach and the sexual organs for a full day, with the intention of drawing close to the Almighty Allah at times other than; the period of menstruation; post-natal bleeding; and the festival days. Fasting has three principles:

1. Restraint from vitiators of fasts such as sexual cohabitation, discharge of sperm, semen or (deliberate) vomit. Others are making food, drink or similar things get to the throat through the mouth, nose, ears or eyes.

2. Intention. A fast, whether obligatory or supererogatory, is not valid without intention . It is a condition that the intention must be specific . For example, to give intention for "the obligatory fast of *Ramadān*." The intention should be made before the day-break. Intention made in the afternoon of the fast is not proper, it must be decisive . Intention on probability is void . The intention of one who, on the eve of the day of doubt[1] intends to fast if the day is the day of *Ramadān* fast is not valid.

3. The period of fast. This is from the appearance of the actual morning-twilight until sunset in the days other than the days of menstruation, post-natal bleeding, post-*Ramadān* Festival, Festival of Sacrifice, and the-two days following the Festival Of Sacrifice, for someone who is not on *tamatuʿ al-ḥajj*.

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[1] ...

Other provisions d to avoid excessive rinsing of the mouth, or nose. Also desirable are fasting on the *ʿArafat* day for a non-pilgrim; fasting on the 9th and 10th of *Muharram*: three days in every month. The days need not he 13th, 14th and 15th (of lunar month). It is permissible for one to fast on Friday. It is reprehensible to taste anything. If it is done, it has to be spat out. Also reprehensible are sexual preliminaries such as kissing, physical contact, romantic thoughts or look or romance, if one is sure of self-restraint (from ejaculation or strong sexual arousal). but if one is not sure, all these are absolutely prohibited. A person observing even voluntary fast cannot abort the fast on account of a firm commitment for similar excuses. If any person imposes a vow of irrevocable divorce or manumission on a fasting person, the vow shall be broken; except when the person who places the vow on the person is one of his parents or his tutor (spiritual guide, or knowledgeable mentor) in which ease, he has to accede. Provided the one who imposes the break does so out of pity over the hardship of the fast. Whosoever deliberately or out of forgetfulness aborts his *Ramadān* fast in the day-time, would have to repay the fast. He has however in addition committed a sin if it is intentional for which reparation is obligatory on him.

He is at liberty to select any of the three reparatory modes which are:

1. Feeding of 60 poor people each of them taking as much as the *mudd* of the prophet (S.A.W.).

2. Fasting for two consecutive months.

3. Manumission of a worthy full *Muslim* slave (not partially or conditionally free). Not one who is otherwise qualified for manumission.



Chapter 5
Spiritual Retreat *ʿiʿtikāf*

Its real meaning is staying in a mosque for the purpose of worship in a specified manner for at least a day and a night and at most for ten days. It is one of the voluntary meritorious acts of worship, it has four principles:

1. The performer of the *ʿIʿtikāf* . That is any rational *Muslim*. The retreat by a woman, a child or a slave is valid.
2. Fast. Retreat is not valid without it.
3. The venue of retreat is the mosque. It is not valid in any other place.
4. Continuous performance of any of the specified acts of worship. They are canonical prayer (*Aṣ-Ṣalaḥ*), *Qurʿān*ic recitation and remembrance of Almighty Allah. It is reprehensible for him to engage in any other acts of worship apart from these three, such pre-occupation with acquisition of knowledge or research; or extensive copying of the *Qurʿān* or to be Imam of the daily prayers. Also reprehensible for the performer of the retreat, is climbing the roof of the mosque (or elsewhere) or the minaret; going out on consolatory or congratulatory visit, retreating without having with him adequate provision.[1] It is desirable to observe the spiritual retreat during the month of *Ramadān* and performance specifically during the last ten days of *Ramadān* is an emphatic tradition of the prophet.

[1] Or adequate arrangements for his feeding.

Vitiators of ʿIʿtikāf

One's *ʿiʿtikāf* becomes void with the commission of a grievous sin such as adultery or fornication, consumption of liquor, telling a lie, making a defamatory accusation, and by sexual cohabitation or its preliminaries such as lustful kissing either during day-time or night, menstruation, eating or drinking during the day, or going out of the mosque, not for the purpose of sustenance nor response to the call of nature.

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Chapter 6
Pilgrimage

It is obligatory on a free mature and capable person once in his or her life-time. It is not valid except from a *Muslim*. It has four principles:

1. Putting oneself in an inviolate status (*ʿihrām*) during a particular period, in the months of *Shawwal*, *Dhū ʿl-Qa ʿdah* and Dhu 'l-Hijjah and in a particular place, that is Makkah for those who are within *Makkah* at the period of inviolation. The place, for one coming from *Madina* is *Dhū ʿl-Ḥulaifah*; for one coming from Egypt, Syria and *Maġrib* (Algeria, Tunisia, Morocco, Mauritania and Libya), the station is *al-Juḥfah*. *Yalamlam* is the station for one coming from Yemen while *Dhatu ʿIrāq* is the station for one coming from Persia, Iran and Khurasan. The state is not validly entered into except with an accompanying intention, either through word or action, for a person, immediately before entering the inviolate status to cleanse off his dishevelled parts by paring his nails, and shaving certain hairy parts of the body (pubic hair and armpits). Traditional Prophetic acts of *ʿihrām* (inviolate state) are four:
   a) Bath at the time of wearing it.
   b) Abstention from sewn clothes; sewn wrapper or shoes (or covered sandals).
   c) Two non-obligatory *rakʾah*s.
   d) Al-Talbiyah - response call. The formulae is: I am totally available to you, Allah. I am totally available to you. I am totally available to you, you have no partner. Surely

praise, benefaction and sovereignty are yours. You have no partner.[1]

The *muḥrim* would not stop chanting the call until he enters Makkah; and performs the circumambulation and the jogging between Safa and Marwa. Thereafter he resumes the talbiyah until he gets to the worship- ground of *ʿArafat*. There are four kinds of *ʿihrām*. The best of them is the Ifrad: exclusive *ʿihrām*. This is when the pilgrim enters into inviolate state for the hajj alone. Then after hajj rites, it is traditional (*Sunnah*) for him to enter the inviolate state for lesser hajj(umrah). The *ʿihrām* of a male involves both his face and his head, thus he is prohibited from covering both with whatever amounts to direct cover such as, turban, rag or any of such things that can be of benefit to him, from heat or cold, it is forbidden for him to wear a ring.

The *ʿihrām* of a female involves only her face and her hands. She is allowed, to hang a cloth over her face for the purpose of veiling it from arousing passion but she is not to affix the cloth to her face with a pin or a similar item. It is forbidden for a *muḥrim* to apply scent that can stick to the body or the cloth such as musk or ambergris. One is also forbidden from anointing his/ her hair, clipping nails, cutting of hair and having sexual cohabitation or its preliminaries . Hajj becomes void if sexual cohabitation occurs before staying at the *ʿArafat* or after it but before performing the circumambulation of ifadah[2] and throwing of pebbles at the Jamrat al-'Aqbah. be it on the day of sacrifice or before it.

2. The circumambulation . It has obligatory conditions, prophetic

[1]The formula should be recited in Arabic.
[2]On the second day of *ʿArafat*.

traditional practices and meritorious practices.

The obligatory conditions are six:

a) Freedom from impurity and filth.
b) Covering of nudity.
c) One should keep the House (*Ka᾿bah*) to one's left.
d) Doing the circumambulation for seven full round in the mosque.
e) Keeping the whole body out of the *Ka᾿bah*.
f) Performance of 2 *rak᾿ah*s of prayer at the end of the circumambulation. The prophetic traditions on it are five:
    i. Doing it on foot.
    ii. Kissing the Black Stone with the mouth during the first round, if the pilgrim is able to and,
    iii. Touching the "Angle of Yaman" of the *Ka᾿bah* during the first round.
    iv. Offering of supplication and invoking blessings on the Prophet Blessing and peace of Allah be on him .
    v. Trotting for men in the first three rounds of the (initial) Circumambulation of Arrival. Trotting is more than walking and it is not running.

It's meritorious acts are many . Among which are: avoidance of extensive reading of the *Qur῾ān*, avoidance of much talk.

Another meritorious act is abstention from drinking water except (when absolutely necessary) for quenching of thirst. Non-resident of Makkah should perform more circumambulations; for doing so is much

better in his/her own case than performing supererogatory canonical prayer. One who sits in the mosque is expected to face the *Kaʾbah*. It is reprehensible to recite and to chant the talbiyyah in the mosque.

3. Jogging, between Safa and Marwah for seven rounds. The pilgrim starts from Safa and ends it at Marwah. The going is counted as a round while the return-trip is also another round. The jogging (between safa and marwah) is not valid except it is preceded by circumambulation. It is not stipulated that the said preceding circumambulation should be necessarily be an obligatory circumambulation. All the conditions for canonical prayer, except facing the *qiblah*, are also conditions for the jogging. Desirable as well, is to stay at Safa and Marwah and supplicate there. The stay or supplication has no time limit. Care should be taken concerning what some people do by running between Safah and Marwah. The male pilgrim, and not the female, is expected to trot in between the two green slopes.[3] If one trots throughout the jogging it is still valid though the person commits an error, the same applies to one who does not trot at all throughout.

4. Staying at *ʿArafat* for at least an hour before the eve of the Day of Sacrifice. To be on a mount for the stay is preferred; except if there are difficulties for the animal. Standing is better than sitting. One should not sit unless there are some necessities. To stand on the *ʿArafat*, with the Imam in the afternoon is obligatory. Leaving it shall necessitate a sacrifice (if done without a cogent reason).

[3]Only between Safa and Marwa.

Umrah

Lesser hajj ('Umrah) is a prophetic tradition that shall be performed once in a life-time. All the principles of hajj except standing on *ʿArafat*, are the same. It has two physical boundaries which are the same as the posts for hajj except for one who is in Makkah, who would have to enter the state of 'lhram at a territory called Hill (opposite the Haram at Makkah) . It is better for him to enter the state *ʿihrām* at *Jiʿiranah*. The second boundary is that of time. That is all days of the year. The method of its *ʿihrām* such as the desirability of bath and cleanliness, what is to be worn, what is prohibited for him as dress, scent and similar things are as exactly as in hajj. It is reprehensible to do it more than once in a single year. It becomes void with the occurrence of sexual cohabitation and other similar actions before the completion of its principles.

Conclusion

When a pilgrim leaves Makkah, let his intention and resolve be to pay a visit to the Prophet (on whom there are blessing and peace of Allah) for visiting him (S.A.W.) is a unanimous prophetic tradition, as well as a desirable meritorious act. When a visitor aims at visiting the Prophet, let it be exclusively for the visit, for the Prophet is a leader and not a follower. It is desirable for the visitor to stop at the outskirt of madinah, perform purification, apply scent and put on his most beautiful dress. Then when he enters the mosque, he starts with canonical prayer *ṣalātu taḥiyatuʿl-masjid* if it is a time when it is proper to observe prayer. If not, he would start by visiting the tomb of the noble prophet, *Muḥammad* (S.A.W.) He would not stick to the tomb, he backs the *qiblah* and faces the noble tomb and says[4], Oh Prophet, may peace, mercy and benediction of Allah be unto you. Then he moves towards his right by about the length of an arm and says: Peace be unto you oh *Abu BakrAṣ-ṣiddīq* He moves again by

[4]Preferable in Arabic if one is able.

about an arms-length and says: Peace be unto you, *Abu Ḥafṣ ʿUmar al-Fāruq* . He thereafter offers the salutation whenever he enters or goes out of the mosque.

Sacrifice, Naming Rites and the Slaughtering of Animals

As for a type of sacrifice of animal known as *al-ʿudhiyah*, it is the slaughtering of animals for the purpose of seeking closeness to Allah on the day of *ʿidu ʿl-kabīr*, the Great Festival[5] - and the two days after it. It is a Prophetic tradition which is done by a free *Muslim* who is capable of doing it whether he/she is old or young, male or female, resident or traveller while he is not a pilgrim at *Mina*. It is done on behalf of himself and or on whom he has responsibility to maintain, such as his children, and his poor parents. It is done after the Imam has slaughtered his own animal, on the days of sacrifice. The sacrifice of a person who slaughters his beast before then, is not valid.

Those who do not have an Imam shall give allowance of time that is considered enough for the Imam nearest to them to have performed his prayer and offered his sacrifice. On whether the said Imam is the spiritual leader or the political leader, there are two opinions. The sacrifice of whoever sacrifices his/her animal before the sacrifice day or after the dawn-break but before sunrise on the day of sacrifice is not valid. The least sufficient animal for the festival - sacrifice is as follows: a lamb or a goat that is a year old. For cattle it is a *thaniyy* - one calf on its fourth year; for camels, it is a *thaniyy* - camel - one which has completed its fifth and is in its sixth year.

For 'Id- sacrifice and Hajj penance sacrifice, the following should be avoided:

1. One eyed animal. That is the one whose eye has lost sight.

[5]On the 10th of Dhu'l-hijjah.

2. An animal with pronounced illness.
3. One with pronounced lameness
4. The emaciated i.e. one without any fat. It is said that it is one whose bone has no marrow.
5. One with slit ear except when the slit is slight: that is, not more than a third.
6. Similarly, one whose ear is cut off, is not acceptable, except the cut is insignificant.
7. One that has lost a greater part of its tail.[6]
8. One with broken horn, if the wound has not healed up; if it has healed then it is acceptable.

   Slaughtering a beast on the 7th day of a child-birth is desirable. Its conditions are identical with those of festival sacrifice. Slaughtering is the complete cutting of the gullet and the two jugular veins. Anything short of that is unacceptable. Slaughtering by a woman is acceptable. If the one carrying out the slaughtering of the animal lifts his hand in the. process, after cutting only part of the gullet and the jugular veins, and thereafter returns the knife and completes the slaughter, the flesh of the animal so slaughtered shall not be eaten. If, on the other hand, the slaughterer deliberately continues to apply the knife until he completely severed the head from the beast, he has committed a reprehensible act, though the flesh of the animal so slaughtered shall be eaten.

   If the slaughterer begins the slaughtering from the nape or from only the outlay the animal shall not be eaten. The acceptable method of slaughtering is to lay the beast on its left side, facing the *qiblah*, and the slaughterer says: In the name of Allah,

[6]One which has lost up to a third of its tail.

Allah is the Greatest.[7] He combines the invocation of Allah's name with *takbīr*. When saying the *basmalah* he would not complete it up to ar-Rahmani-r-Rahim, and he would not offer any salutation to the Prophet (S.A.W.) If he stops at saying *Bismillāh*, it is sufficient even if he forgets to say it out of forgetfuiness, it is still unanimously acceptable. *ʿibnul-Qasim* opined that even if the omission is deliberate, it is still acceptable but according to *al-Mudawwanah al-Kubra* - school of thought (the most basic book on Islamic Law) it is not acceptable. If he does not make the beast face the *qiblah*, even if deliberate, it is still admissible. Allah knows best.

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[7] To be said in Arabic.

Chapter 7
Marriage and Divorce

Matrimony: *an-Nikāḥ* - (Marriage) literally means entering of a thing into another thing. In Islamic Law, the term, (*nikāḥ*) , is contract and it is a metaphor for sexual cohabitation. Imam Malik is reported to have said "Marriage is a desirable act" There is a divergence of opinions on its status in this generation. Some people believe that to leave marriage and engage in acts of worship, for fear of lack of means of meeting his obligations towards wife, is more meritorious (than going into marriage when one is incapable of meeting the obligations) . Some people opined that to marry, under such circumstances, is still preferred, and he would strive for a lawful means, if he is able to, "and if not, he would have recourse to means that are neither expressedly allowed nor forbidden - doubtful means . Sexual cohabitation is not acceptable in the Islamic law, except through two means, marriage contract or possession; for the statement of the Almighty Allah that "Those who guide their sexual organs except to their spouses and what their right hands possess"[1]

The first - Marriage contract - has four constituents:

1. Marriage guardian. Marriage contract is not valid without it. Certain conditions are to be satisfied by a would be guardian. These include religions compatibility (on the part of the guardian and the ward). An unbeliever cannot give a *Muslim* lady out in marriage; neither can a *Muslim* give out an unbelieving lady out in marriage, except when the prospective bride is his (*Muslim*'s) bondswoman or his manumitted ward; these he can give

[1]The Glorious *Qur'ān* 23:6

out in marriage. Another condition is freedom. Therefore a bondsman, a conditionally freed, a semi autonomous bondsman, or a partially freed person would have marriage contracted by him nullified even if consummation had taken place. Sexual cohabitation would make her earn the dower. According to some jurists, the conditions include that he must not himself be a ward, and that he must be a just person. The popular view is that viciousness does not strip one of the right to be a marriage guardian; rather it impairs the perfection of a marriage contract but it does not hinder the validity of the marriage. A fool but impudent person may contract marriage of his own daughter with the permission of his own guardian. Other conditions are maturity, consciousness, masculinity. A contract by a woman on herself or on other is not acceptable. She should delegate to a man her own marriage contract, that of her bonded -serf and also that of her freedmaid and those under her patronage.

2. Dower. Mariage contract is not valid without it. It is a minimum of a quarter of a *dinār* of gold or three dirhams of silver. Or an amount of money that is equivalent of any of the two. It is an obligation due to Allah and to the woman. The obligation towards Allah is three dirhams and anything above that is the right of the woman. Even if she agrees, with dispensing with the whole dower, marriage contract based-on such agreement is not valid, she may forgo anything above a quarter of a *dinār*. Dower has no maximum limit.

3. Witnessing. It is a condition for a valid consummation and not a condition for marriage contract.

4. Legally qualified spouses. This is the woman who should be free from legal inhibitions which render her forbidden in marriage and the man. In the case of the man, there are conditions for validity and conditions for its confirmation. The conditions

for its validity are four: Islam, discretion, consciousness, (or sanity) manliness. For a hermaphrodite shall not marry and shall not be married.

The confirmatory conditions are five:

a) Freedom from bondage. The marriage of a bondsman, without the consent of his master, shall not be confirmed.

b) Maturity. If a kid marries without the consent of his father or his testamentary executor, if the guardian confirms it, it is acceptable but if he rejects it after consummation the woman shall earn a quarter of a *dinār*.

c) Management of one's own affair - Independence. If an imprudent marries without the permission of his guardian, the guardian shall confirm it, if it is appropriate, but if he rejects it only after consummation, then the woman shall earn a quarter of a *dinār*.

d) Sound health. The marriage by a sick man or woman is not valid. It would be nullified, even if consummation had already taken place.

e) Compatibility of spouses. Marriage equality or compatibility is a right of the woman and the marriage guardians If the woman agrees with the marriage guardians to wave it except the question of Islam it is proper.

f) The formula. It is a pronouncement with which marriage is contracted. The formula expected from the marriage guardian is such as. "I have contracted the marriage" or "I have given her out in marriage" and the groom would say something like ,"I accept" or "I am pleased with it".

A *Muslim* - man shall not request marriage from a lady who had received an earlier request for marriage from another *Muslim*, nor make a bid over his bid. Marriage on the basis of exchange is prohibited. That is a vulva for a vulva such as when one man gives out

his daughter in marriage to another man, in consideration of the other man's daughter who he takes in marriage without any dower. Also unlawful is temporary marriage, that is, marriage that would subsist for a specified time (not for life).

Such temporary marriage shall be annulled whether before or after consumation without any divorce. She would be entitled to dower which women of equal status with her normally take; unless a particular amount had been specified. In that case she shall be entitled to the specified amount. The punishment for adultery shall be waved for him, and the offspring of the marriage shall be his and she should observe full *ʿiddah* (waiting term.)

Marriage cannot be properly contracted with a woman during her *ʿiddah* - waiting term - period, be the *ʿiddah* that of death or that of divorce. The prohibition of marriage becomes everlasting if sexual cohabitation takes place during the *ʿiddah* period or even if it takes place after it (but when the marriage contract had taken place during the *ʿiddah* period).

Explicit courtship is forbidden during *ʿiddah* but allowed are complimentary utterances which imply the desire, such as his saying "I am attracted to you" Both a free-person and a bondsman can many concurrently a maximum of four free *Muslim* women or four free scriptural women. For a bondsman he has the right to marry concurrently a maximum of four *Muslim* bonds-woman. A free man can also do like the bondsman, if he fears committing fornication, and does not have the means i.e. money to marry or maintain a free-woman.

Polygyny

A man who marries two or more wives, be they free persons, or bonds-women, *Muslim*s or women of the scripture, it is obligatory on him to deal equitably with them. If he does not act equitably with them, he is a transgressor and disobedient to Allah and His Prophet. Neither is he fit for Imamship nor should his witness be acceptable.

Whoever contests its being mandatory is an apostate, who would be expected to repent within three days, if he does not then, he is an unbeliever.

The said equity is applicable to maintenance and clothing, according to the status of each of them. The noble, according to the standard of women of her status, and a lowly woman, according to her status. There should also be equality in night sharing. The man shall not go into the apartment of a wife, for his needs in a day that is not her turn, rather he would make his request from outside her room. The sharing of nights shall be a day and night at a time, the sharing shall not be on a two-day rotation except with the consent of the wives.

Two Useful Hints

1. A man shall not cohabit with his wife or his bondswoman in a room while there is another person there, whether the person is young or old, awake or asleep.

2. It is reprehensible to have the spouses together on a single mat (or bed). It is said that it is even prohibited. There is divergence of opinions on sleeping together with a collection of bondswomen. Some opined that it is legal, while others opined that it is not. As far as sharing of a bed is concerned it is said to be reprehensible, but as regards sexual cohabitation with any one of them while another or others are present, the law is unanimous about its illegality. This brings us to the end of what I intended to compile on issues related to marriage.

Divorce

Repudiation or Divorce

The word "*aṭ-ṭalāq*" , repudiation or divorce is taken from the statement "I release the camel". And it is released when you free it from the cord or shackle. Any woman with a husband is under a covenant

with her husband. When he repudiates her, she has been released from his covenant. "*aṭ-ṭalāq*" literally means a break and departure. In usage it is the breaking of marriage bonds between a couple. This authority to so break the bond, has been vested on the husbands and not the wives by the Almighty - Allah. The break are of two types: The approved that is orthodox repudiation and the reprehensible, which is heretical repudiation. The latter is three repudiations in one pronouncement. Orthodox repudiation has conditions. That if the repudiated women is capable of menstruating, she should not be menstruating or having post-natal bleeding at the time of the pronouncement of the repudiation. She should be in a period of cleanliness in between two distinct occasions of menstruation within which, he had not cohabited with her. He should pronounce the divorce once in the period. If a man tells his wife; "You are divorced." That is one pronouncement of divorce, unless he intends it to be more than once pronouncement of divorce. *khul*ʿ - Release - is an irrevocable dissolution. It cannot be reversed, even if he did not mention repudiation. Once she has given him something on the basis of which he releases her.

The constituents of repudiation are four:

1. The proponent of the repudiation. It is conditional that he should be a *Muslim*, who is responsible. The repudiation pronounced by an unbeliever is discountenanced.[2] Also disregarded is the repudiation pronounced by a child-husband, someone who is not in his senses, due to insanity, swoon or the like. It is said in *jawāhir*[3] "that concerning one intoxicated by liquor or spirit, there are two views" The statement of the author of *jawāhir* "with liquor or spirit" is to exclude the situation when

[2]This provision is superfluous since a non-*Muslim* cannot be legally married to a *Muslim* lady, divorcing her is completely out of place.

[3]*Jawāhiru ʿl-īklīl* is a commentary on *Mukhtasar Khalil* on which one of the present writers is currently researching.

a person takes milk or eats lawful food or medicine then it intoxicates him. If such a per son pronounces repudiation under such circumstances, according to the unanimous opinion of jurists, such repudiation is not binding on him.

2. Another constituent is the object of repudiation. That is the wife. The condition is that the husband, prior to the repudiation, possessed marital authority over the woman.

3. Another constituent is intention. One whose tongue pronounced repudiation without actually intending it, that pronouncement does not confer repudiation on him. The repudiation pronounced The repudiation pronounced by one coerced to pronounce it is not effective.

4. The pronouncement or an action that amounts to it. The pronouncement is of two kinds: manifest pronouncement and indirect pronouncement as well as what amounts to either of them both.

The manifest pronouncement is that which contains the word , "*aṭ-ṭalāq*" - "repudiation" -, no matter how it is put. Such as you are repudiated or you are a repudiated one. Such repudiation thus becomes effective and it does not require any intention and the repudiation amounts to one repudiation only except when he intends it (as shown by action and circumstances) to be for more than one.

The indirect pronouncement is of two kinds: The clear and the imputed. The clear one are such as "You are free" or "You are acquitted" it is like manifest pronouncement in the sense that the claim of the man that he did not intend divorce shall not avail.

In the case of the imputed pronouncement such as "Be gone" or "Go away", the claim of the husband that it was not an intent of repudiation and concerning the number of divorce that it was intended to convey, shall be upheld. If he claims that he intends repudiation by it, the popular view among jurists is that it is taken as repudiation.

What amounts to the pronouncement is of various kinds. Among them are understood indicators. An indication from a dumb is considered as repudiation. Understood indicator includes written repudiation from one who is capable of speaking. If he puts the repudiation in writing and he intends it to mean repudiation, then what he wrote shall be binding on him. If he writes it without any determination to repudiate, he can recall it provided the letter has not got to the woman; but if it hias got to the woman, it becomes binding. But in the case of one who had absolutely resolved within his mind to repudiate and he wrote the letter which has not got to the woman, there are two reports. (One is that repudiation is binding; the other is that it can be recalled by him).

It is prohibited for a man to marry a woman in order to make her lawful for one who had irrevocably repudiated her. Such practice does not make her lawful for the first husband. The marriage shall be aborted whether or not consummation has taken place. If the termination of marriage is after consummation had taken place, she is entitled to the specified dower. A woman whom a man has repudiated by a triple repudiation shall not thereafter, whether through ownership or marriage, be lawful for him until she had been married to, and divorced by another man.

Revocable Repudiation

It is said in the *Risālah*[4] that: He who repudiates his wife may take back his wife who still menstruates in as much as she has not entered her third menstrual circle. For a free woman or second menstrual circle for a bondswoman. A commentator said: "The husband possesses the right of revocation in any repudiation that is not yet up to three, provided it is not accompanied with a ransom, that is, once the separation is not through *mubaraʿah*, mutual seperation on account of ransom.

[4]Of *'Abī Zayd al-Qayrawānī* .

He has the power of revocation provided the period of retreat (*ʿid-dah*) has not expired, for marriage bond between a couple does not cease to subsist without triple repudiation in the case of a free woman as long as it is not accompanied by ransom and the *ʿiddah* has not expired.

The revocation may be through both intention and utterance, or intention alone. If he resolves within himself that he has revoked the repudiation, the revocation, between him and Almighty Allah, remains valid. If a person pronounces the revocation without the actual intention, while the revocation is valid, it is a matter between him and Allah; the Almighty.

Sexual cohabitation without the intention of revocation is not a revocation. Sexual cohabitation without the intent of revocation, is illegal.[5] On the issue of the need for the presence of witnesses for the revocation, there are two views: that it is obligatory and that it is only desirable.

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[5] The popular view is that sexual cohabitation terminates the divorce process unless another one is started,The woman can seek judicial dissolution if she is not satisfied.

Chapter 8
Commercial Transaction

A commercial transaction has three constituents:

1. A statement that amounts to consent, such as the statement of the seller that "I sold it to you" and the purchaser saying "I bought it"; or an action (from either party) such as acceptance of offer by payment and delivery.

2. The parties, i.e. the seller and the purchaser. It is a condition for the validity of the sale that each of the parties[1] must be in full possession of his/her faculties. Sale or purchase by a person not in his full senses is not validly contracted, be the lack of full control of one's faculties due to youthfulness, madness, or drunkness and similar things. A commercial transaction cannot be effected except by one with his full capacity.

3. The object. This means the price and the priced. Concerning both of them, there are five conditions to be satisfied.

   a) Ritually clean. The sale of a ritually unclean object such as excreta, or a filthy thing that cannot be purified such as rancid oil is not valid.

   b) To be of lawful utility. The sale of an animal that is illegal for consumption such as horse, mule or donkey is not valid, if it is in a critical condition that may lead to death.

[1] Or its agent.

c) To be of lawful utility. The sale of an animal that is illegal for consumption such as horse, mule or donkey is not valid, if it is in a critical condition that may lead to death.

d) Capability of delivery. It is illegal to sell a run-away slave while at large, or a stray camel; or fish while still at large in the river.

e) Ascertained price and definite object. Ignorance about any of them renders the sale contract void. Examples of such void contracts are when something is bought with a piece of an unknown stone. Or such as when gold or silver soil is sold.

Usury/Interest

Usury or increase in repayment is forbidden. That is increase over what is due. Also forbidden is usury due to postponement, that is, deferment of payment. This type of exchange involves gold and silver. It is not lawful, for example, to sell two dirhams for three dirhams (of the same value), or to sell a dirham for a dirham to be paid, for example, in the next day or in the next hour. Resale with specification of gain is lawful but preferable to avoid it, for it involves much explanation from the vendor. And it is likely that he forgets a particular aspect which may have adverse effect or he may omit a thing while his mind may wander from one thing to another. It is not lawful, in sale contract, to defraud. That is to conceal the defect in the commodity, from the purchaser. It is compulsory that the vendor should mention every thing which if it had been mentioned could have reduced the interest of the purchaser in the good. It is also mandatory on the vendor to mention what he agrees upon and what he waves. Allah knows best.

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Chapter 9
Inheritance Shares

The male heirs are ten: Son and son's son however low, the father and the grandfather however high, brother and the son of the brother be he a germane brother or a consanguine brother no matter how distant; the full paternal uncle or consanguine paternal uncle and his son(cousin) no matter how high; the husband; and the man who set free a slave i.e. the manumitted slave still under the care of his master/mistress. Female heirs are seven: the daughter; the daughter of the son, however low, the mother and the grandmother, however high; the sister, the wife and a manumitted bondswoman still under the protection of her master/mistress. Besides those mentioned, other persons, such as mother's father or sister's son[1] are relations who have nothing to inherit.

shares

The basic shares are six:

1. Half. It is the share of each of the following five relations: The only daughter and the son's daughter in the absence of the daughter. The only germane sister or in her absence the consanguine sister and the husband in the absence of children.

2. A quarter: It is the share of the husband if the deceased has an issue. It is also the share of the wife or wives if the deceased left no issue.

[1] Such as daughter's daughter; sister's daughter, maternal uncle, uncle's daughter, and brother's daughter.

3. One eighth- It is the share of the wife(s) if there is a child.

4. Two thirds: It is the share of two or more female shares that if one of them has been the only one, she would have been entitled to half.

5. A third: It is the share of the mother in the absence of posterity, It is also the share of two or more children of the same mother with the deceased, whether male, female or mixed.

6. A sixth: It is the share of each of the following seven relations.
   a) The father who co-exists with the offspring.
   b) The mother who co-exists with the offspring.
   c) The grandmother when she is alone or if she co-exists with another female (whom is entitled to share)[2]
   d) One or more son's daughters, if one actual daughter exists.[3]
   e) One or more uterine sisters in co-existence with a germane sister.
   f) One uterine brother or sister alone.
   g) The paternal grandfather when he co-exists with an offspring or an offspring of a son.

The Agnates

When the father, the grandfather, the son or the son's son, exists alone, he would take the whole estate. If two or more brothers alone exist, they would share the whole estate equally. If they (brothers)

[2]Such as the deceased's descendant.

[3]If more than one daughter exist, the son's daughters are eliminated, except by the presence of a brother of theirs (son's son) or their paternal uncle's son.

are made up of male and female, they would share it in a way that a male would have the portion of two females.

All male direct link or all male linked with the deceased through a male shall inherit as agnates. The implication of being an agnate heir is that whoever inherits through it, is entitled to the whole estate, if he is the only one existing as sharer (beneficiary) and if he co-exists with others he would also be entitled to take the residuaries after the other basic sharers have got their shares.

Exclusion

clusion is of two types: exclusion through elimination and exclusion through shift. Exclusion through elimination cannot affect any one who is directly related to the deceased, such as sons, daughters, fathers, mothers, and those who occupy such direct position - the husband and the wife. Other heirs apart from those ones (can be subject to exclusion through elimination) Thus the son's son is excluded through elimination, by the son.[4] The grandfather is excluded by the father. The brothers, whether germane, consanguine or uterine are so excluded by the son, the son's son, however low, and the father. The children of brothers are so excluded by their fathers and those who are substitutes of their fathers, as well as the grandfather.

The paternal uncle is excluded by the children of the brothers and those who exclude the children of the brothers.[5] The son of the paternal uncle is excluded by his father and those who exclude him.[6] The daughters of the son are excluded by the existence of the only son of the deceased, or two or more daughters of the deceased; except when the daughters of the son co-exist with their male counterpart, who in that case, agnatised the son's daughters, then the male counterpart (son's son) and the son's daughters would share what is left after the

[4]Many Islamic countries such as Egypt, Tunisia and Pakistan have amended this provision.

[5]Their own fathers, the father and the grandfather of the deceased.

[6]Children of the brothers.

shares of the daughters.[7] The sharing shall be based on the principle of "for a male the share is for two females."

The consanguine sisters shall be excluded by germane brother or two or more germane sisters except when the consanguine sisters co-exist with a consanguine brother who, in that case, agnatise the consanguine sisters. Then the consanguine brother and the consanguine sisters shall share what is left after the due of the germane sisters.[8] It would be done among them in such a way that a male shall have the share of two females. The germane or consanguine sisters shall be excluded by the father, the son, and the son's son. The grandmothers of any kind is excluded by the mother while the grandmother from the father's side (paternal grandmother) is eliminated by the existence of the father. The manumitted slave is excluded by agnates relations (of the deceased).

Exclusion through shifting is divided into three kinds:

1. 1. Shift from one fixed share to another. This is pertaining to five situations:
   a) The mother is shifted by the child whether male or female, from a third to a sixth. She is also so shifted by the child of the son, (whether male or female, one or more) two or more of all types of brothers or/and sisters.
   b) The husband is shifted from half to a quarter by a child or the grand-child.
   c) The wife is shifted from a quarter to an eighth by those who shift the husband's share.[9]
   d) The sole daughter of a son shall be shifted from half and (in the case of) two or more daughters of the son would be shifted from two-thirds (and in both cases) by the existence of a female offspring at a generation level higher

[7] Daughter's son 1/3 and son's son 2/3.
[8] 1/3 and 2/3 respectively.
[9] The child or grandchild.

than, theirs[10] and the son's daughter(s) would thus be co-sharers of a sixth.

e) Consanguine sisters would be shifted to a sixth by one germane sister.

2. Shifting from the position of an agnate to the position of a basic sharer. This applies to the father and the grandfather. Either of them is shifted by the son or son's son to the position of a sharer and thus would have a sixth.

3. Shifting from having basic share to having portions as agnate. This is the case with daughters, son's daughters, germane sisters, consanguine sisters.

Sole - daughter would be a sharer of half since she is alone, and if they are two or more, they would have two thirds, once they have a brother of their level. They are not sharing inheritance as sharers on account of being relations, entitled to shares but as agnates. The same applies to son's daughters when they qualify for inheritance. It is also applicable to germane sisters and also to consanguine sisters when there are no germane sisters.[11]

Barriers to inheritance

Difference in religion constitutes a legal barrier to inheritance. There cannot be mutual right of inheritance between a *Muslim* and an unbeliever; nor between the Jews and the Christians. Another barrier is being a slave. Thus a slave can neither inherit nor be inherited. What he leaves behind belong to his owner. Another barrier is murder. There cannot be inheritance for a heir who intentionally kills the deceased. Another barrier is the rejection of blood-tie through

[10] Such as the direct daughter in relation to son's daughter.

[11] In each case, once their male counter-part co-exist, they would be agnatised and they are thus no longer basic sharers.

action of imprecation.[12] The loss of right to mutual inheritance is between the one who claims imprecation and the child only.[13] Uncertainty concerning who dies first or last between two relations is also a barrier to mutual right to inheritance. It is so, for instance, when relations die in a mishap such as fire or road accident.

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[12] When a man disowns paternity of a pregnancy of his wife through *Liʿān*.

[13] The child can inherit from or through the mother but not from or through the father.

Chapter 10
Obligations, Practices and Etiquettes

It is mandatory on a *Muslim* to believe that Allah is one, no associate for Him in His sovereignty and there is no co-sharer with Him in any of His Divine attributes. A *Muslim* must also know that all what are in existence have a sole Creator. It is imperative that He exists, He is the Eternal, The Everlasting, He lives, He is Capable; The Initiator of resolutions, The All Knowing, The Hearer, The Perceiver and The Speaker. It is also imperative that His attributes do exists; Embracing particularities, generalities, impossibilities and others. The *Muslim* should also know that Allah, The Almighty is one in His Being, no partner for Him and no one is worthy of worship except Him; and that All His Messengers, Blessings and Peace be on them are firm believers in what they brought; and that *Muḥammad* Blessings and Peace be on Him is His servant and Messenger.

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The *Muslim* must also know that all what the Prophet brought are true; and all what he disseminated are absolutely true, such as concerning punishment in the grave; the situation and horrors of the Day of Resurrection; the narrow path; the measurement (through which mans deeds would be assessed), all those things hidden from us, paradise and hell and that what He wishes shall be and what He does not wish shall not be.

Other things the prophet disseminated which are true included that faith is to be established in the heart, expressed by the tongue and demonstrated by the parts of the body. That the Word of Almighty Allah is abiding and firm, stored in the minds, read with the tongues, recorded in the sheets. That the believers shall see the Almighty Allah, and He shall talk to them. A *Muslim* must also hold the belief that the best generation is that of the Prophet's Companions, then followed by the next generation to theirs and the generation that came immediately after the generation that succeeds them and so on. He must also hold that the best of the Companions are *Abu Bakr*, *'Umar*, *'Uthman* and *'Ali* in that order. Similarly one should not mention them except for good.

Miscellaneous Provisions

Seeking blessing upon the Prophet, blessing and peace of Allah be upon him is obligatory once in one's life. It is forbidden to recite the *Qurʿān* wrongly, similarly forbidden are back-biting, calumny, lie, envy, extortion, usury, and unlawful acquisition of others' properties. The Almighty Allah says: "Do not illegally consume the properties of one another."[1] That is, through unlawful means. This is of various kinds. Among them are embezzlement, embezzlement of the properties of the orphan. Allah, the Almighty says: "Surely those who illegally acquire the properties of the orphans are consuming fire into

[1]The Glorious *Qurʿān* 4:28

their stomachs and they shall soon be burnt in the Hell-fire"[2] This implies that the end of their life shall be in hell.

Bribery and Corruption

One of the most grievous corruptions is taking bribes in matters of justice. The Prophet, blessings and peace of Allah be on him, said: "All flesh nurtured through corruption shall be fit for hell" The prophet was asked: "O Messenger of Allah, what is corruption?" He said: "bribery in justice". He went further saying "Allah cursed the giver and taker of bribe". *al-Ḥassan*, *Qatadah* and *Muqātil* said so, too. *Ibn Masʿud* said: "Corruption is bribery in any matter". He said further "that one helps one's brother out of a problem and the latter then gives him a gift on account of that." He was told "Oh the father of *'Abdur-Raḥmān* we see that as taking bribe on justice". Then He said "Receiving a gift on justice is disbelief. Allah, the Almighty said: "Those who do not judge according to what Allah has revealed are unbelievers"[3] *'Abu Hanifah*[4] May Allah be pleased with him said "if a judge receives bribe, he should be retired immediately, if he is not retired all the judgement he pronounces thereafter becomes void. *al-Qurtubī* said: "This position, if Allah, The Almighty, wishes, is not to be contested by any person for bribe taking is viciousness and the judgement of a vicious person is not valid". Illegal possession is called *Suht* (sic) - corruption (literally an eraser) because it erases obedience to Allah i.e., it removes and eliminates it, for Allah, The Almighty has said: "Whoever rejects- faith, all his deeds had become naught and in the hereafter he would be one of the losers".[5] It is said that whoever contests this position is one who permits the forbidden and forbids the lawful.

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[2]ibid 4:10

[3]ibid. 5:44

[4]The leader of the Hanafi school of Law in Islam

[5]The Glorious *Qurʿān* 5:5

Ethics

Saying of *Bismillāhir-Raḥmānir-Raḥīm* (in the name of Allah the Beneficent, The Merciful) at the commencement of eating and drinking is desirable. So also is the saying *al-ḥamdul illāh* (All praise is due to Allah) at the end of each of the two. Il is also desirable that one eats or drinks with one's right hand. One should not blow air into food or drink nor respirate into the container. There is no harm in drinking while standing.

Men are prohibited from wearing silk and sitting on it, so also is wearing gold-ring or ring made from any material that contains gold. It is meritorious to wear one's right shoe first before the left and to put off the left shoe first before I he right shoe. One is not to walk with only a shoe on, and one is not to stand wearing only one shoe except for a necessity. Playing chess is prohibited. Also prohibited is fashioning a thing in the image of a human being or similar beings such as animals.[6]

Sneezing, etc

Salutation to one who sneezes is obligatory just as response to salutation of peace. It is by telling the one who sneezes "*yarḥarmuka Allāhu* - May Allah have mercy oh you" Response to it is a desirable act. It is that the one who sneezes should say: *yaḥdīkumu ʿl-lāhu wa yusliḥu bālakum* -May Allah guide you right and cleanse your heart -- or to say "May Allah forgive us and you". To combine the two is better. The one who sneezes shall not be saluted until he expresses gratitude to Allah. It is not lawful for a *Muslim* to forsake his *Muslim* brother for more than three days. Two persons should not engage in secret conversation in the presence and to the exclusion of another person. It is not lawful for a man to be in seclusion (where sexual cohabitation is possible) with a woman who is neither within pro-

[6] An image that could have shadow. This does not apply to pictures.

hibited -degree- in- marriage (mahram)[7] nor his wife. It is also not lawful for a man to look at her.

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[7] Two extremist groups in Islamic History. There is no *Qurʿān*ic Justification for this provision.

Chapter 11
Epilogue

It is necessary for every person not to do anything other than good and virtuous towards his hereafter or acquisition of money for his sustenance. Every person must avoid what does not concern him; to be on his guard against his own whims and caprices; to abandon what he is not clear about; to be equitable with his subordinates, deal gently with them, overlook their human frailties. Constant patience is also expected from him. If he is in company of a learned person he should grant the learned person every honor and dignity; when the learned person speaks he should listen attentively. When he asks questions from the learned man it should be for purpose of clear understanding and one should not counter his response to another person's question. If anyone is engaged in academic argument with another person he should do it with calmness, sobriety, and avoidance of pomposity. He should also do it with good conduct and good manners. These are two essential tools for scholarship. All praise is due to Allah alone. Blessing and Peace be upon our leader, *Muḥammad*, members of his house-hold and his companions.

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